IN RE: PETITIONS FOR SPECIAL HEARING
AND VARIANCE
S/S of Silver Lane, 626 feet NE of
Marsh Road
15th Election District
6th Councilmanic District
(2221 Silver Lane)

Jesse Tighe (Bialek) and Anthony Bialek

Petitioners

- * BEFORE THE
- DEPUTY ZONING COMMISSIONER
- * FOR
- * BALTIMORE COUNTY
- * CASE NO. 06-684-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing and Variance filed by the legal owners of the subject property, Jesse Tighe (Bialek) and Anthony Bialek. The Petitioners are requesting special hearing relief for property owned at 2221 Silver Lane. The Special Hearing request is filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit the construction of a single family dwelling on a separately recorded lot is not encumbered by the ownership of an adjacent lot. The Variance is to permit a proposed dwelling and open porch with a 44 foot road center line setback and side setbacks of 11 feet each and rear setback of 25 feet in lieu of the minimum required 75 feet and 50 feet to other lot lines respectively; to permit a 28% building coverage in lieu of the maximum allowed 15%.

The property was posted with Notice of Hearing on August 11, 2006, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on August 10, 2006, to otify any interested persons of the scheduled hearing date.

Notification of the second sec

Amended Petition

Ms. Moskunas indicated during the hearing that the lot on which the proposed home would be built is 0.11 acres whereas the RC 5 regulations require 1.5 acres. Consequently the Petitioners need an additional variance to those already requested if a new home is to be built on the subject lot. While testimony and evidence were taken at the August 28, 20006 hearing regarding all issues, the property was reposted on September 15, 2006 and readvertised in the Jeffersonian newspaper on September 14, 2006 with the full list of variance requests. A continued hearing was held on September 29, 2006 at which time no additional witnesses appeared.

Applicable Law

Section 500.7 of the B.C.Z.R. Special Hearings

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

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

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

County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: A ZAC comment letter was received from the Office of Planning dated July 17, 2006 which contains restrictions. A ZAC comment letter was received from the Department of Environmental Protection and Resource Management dated August 22, 2006 which contains restrictions. Copies of these comments are attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on August 28, 2006 on behalf of the requested special hearing and variance relief were Bernadette Moskunas with Site Rite Surveying, Inc., Jesse Tighe (Bialek) and Anthony Bialek, Petitioners. There were no protestants or citizens at the hearing. No one appeared at the continued hearing on September 29, 2006. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The subject property contains 0.1147 (5000 sq. ft.) acres zoned RC 5 and is presently vacant. Ms. Moskunas proffered that the subject lot is lot 9C in the Cedar Beach subdivision which was recorded in the land records in 1939. She indicated that most of these lots were the typical 50 foot wide lots so often seen on the eastern side of the County. See exhibit 2, Cedar Beach subdivision.

The Petitioner would like to build a house on this subject property as shown in the Plat to Accompany exhibit 1. They own and reside in the home a 2339 Poplar Avenue which backs up

90-30-6

out this new way of seeing undersized lots. New Jersey recognizes the doctrine and has been a major source of cases for the Maryland Court of Appeals.

In light of our Court's recognition of New Jersey case law on this subject, I note the recent New Jersey case of *Jock v Zoning Board of Adjustment of the Township of Wall*, 184 N.J. 562, 878 A2d785, (2005) at 796 reviews the doctrine at some length. The Supreme Court of New Jersey noted that there are a number of recognized exceptions to the merger doctrine. One exception specifically listed is that the doctrine "does not apply where a party who own a non conforming lot acquires contiguous lot the fronts on a different street (back to back) and merger would not form a conforming lotsince it would require a strained finding that these two lots were intended to form one exceptionally long narrow plot and would be in total disregard that each fronts on different streets. " Additionally the two lots in the subject case are separately assessed and taxed. Based on the New Jersey precedent and the facts of this case, I find that the two lots owned by the Petitioners have not merged.

In regard to the request for special hearing to allow building a home on a undersized lot, I note that the person directly affected by the request, the Brodowskis, have no objection to the new house as shown by their written statement to that effect. Consequently I find that allowing a house on this lot will not adversely affect the neighborhood and could be allowed within the spirit and intent of the RC regulations.

Regarding the request for variances, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. This subdivision and the subject lots were created much before the zoning was imposed on the area. The imposition of zoning on this property disproportionably impacts the subject property as compared to others 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. The Petitioners could not build a home on the lot.

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. The pattern of development shown by the Petitioner's exhibit 7 is very much a mixed bag with both double and single lots common in the area. I am persuaded once again by the Brodowski's support for the new house closest to their property that there will be no change to the character of the neighborhood.

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

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 29th day of September, 2006, that the Petitioners' request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), Special Hearing request is filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit the construction of a single family dwelling on a separately recorded lot is not encumbered by the ownership of an adjacent lot be and is hereby GRANTED; and

IT IS FURTHER ORDERED, that the variance requests to permit a proposed dwelling and open porch with a 44 foot road center line setback and side setbacks of 11 feet each and rear setback of 25 feet in lieu of the minimum required 75 feet and 50 feet to other lot lines respectively, to permit a 28% building coverage in lieu of the maximum allowed 15% and to

allow on a lot 5000 sq. ft. in lieu of the required 1.5 acres are hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. Prior to building permit the Petitioner shall submit the following information to the Office of Planning for their determination that the proposed structure meets the RC 5 Performance Standards:

Submit photographs of existing adjacent dwellings to the Office of Planning.

Submit building elevations (all sides) of the proposed dwelling to the Office of Planning for review and approval. The proposed dwelling shall be compatible in size and architectural detail as that of the existing dwellings in the area. Ensure that the exterior of the proposed buildings use the same finish materials and architectural details on the front, side and rear elevations. Use of quality material such as brick, stone or cedar is encouraged.

Design all decks, balconies, windows, dormers, chimneys and porches as a component of the building following dominant building lines. Decks shall be screened to minimize visibility from a public street.

Design all accessory structures at a scale appropriate to the dwelling and design garages with the same architectural theme as the principal building, on the site, providing consistency in materials, colors, roof pitch and style.

Provide landscaping along the public road, if it is consistent with the existing streetscape.

- 3. 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).
- 4. 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.

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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JAMES T. SMITH, JR. County Executive

WILLIAM J. WISEMAN III

Zoning Commissioner

September 26, 2006

JESSE TIGHE (BIALEK) AND ANTHONY BIALEK 2339 POPLAR ROAD BALTIMORE MD 21221-6127

Re: Petition for Special Hearing and Variance

Case No. 06-684-SPHA
Property: 2221 Silver Lane

Dear Mr. and Mrs. Bialek:

Enclosed please find the decision rendered in the above-captioned case. The petition for Special Hearing and Variance has been granted with restrictions 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,

John V. Murphy / pg John V. Murphy

Deputy Zoning Commissioner

for Baltimore County

JVM:pz

Enclosure

c: Bernadette Moskunas, Site Rite Surveying, Inc., 200 East Joppa Road, Room 101, Towson MD 21286



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

| for the property located at | #2221 | Silver | Lane | |
|-----------------------------|----------|--------|------|---|
| which is | resently | zoned | RC 5 | - |

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

The construction of a single family dwelling on a separately recorded lot is not encumbered by the ownership of an adjacent lot.

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baitimore 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. Legal Owner(s): Contract Purchaser/Lessee: Jesse Tighe (aka Jess Bialek) Name - Type or Print Name - Type or Print Signature Anthony Bialek Name / Type or Print Telephone No. Address Zip Code State City 443-985-0811 2339 Poplar Road **Attorney For Petitioner:** Telephone No. Address Md 21221-6172 Baltimore State Zip Code City Name - Type or Print Representative to be Contacted: Signature Site Rite Surveying, Inc. Name Company (410) 828-9060 200 E Joppa Rd., Suite 101 Telephone No. Telephone No. Address Address 21286 MD Towson Zip Code Zip Code City State City State OFFICE USE ONLY ESTIMATED LENGTH OF HEARING UNAVAILABLE FOR HEARING REV 9/15/98 JADEN RECEIVED ROW FILMS

| ORIGIN HER | tition for Variance |
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| to the | ng Commissioner of Baltimore County for the property located at |
| his Petition shall be filed with t wner(s) of the property situate in nd made a part hereof, hereby pe | tment of Permits and Development Management. The undersigned, legal of County and which is described in the description and plat attached hereto a Variance from Section(s) AGA, 3. B, 2 AND 3, AND 301-1, 2 |
| | AND OPEN PORCH WITH A 44 FT. ROAD CENTER LINE SETBACK IN REAL OF THE MINIMUM REQUIRE INC. RESPECTIVELY. ALSO TO PERMIT A 0.28% BLDG COSERA WED 15% to the zoning law of Baltimore County, for the following reasons: |

ろくて凡 AND Œ of the Zoning Regulations of Baitimore County, (indicate hardship or practical difficulty)

SEE ATTACHED

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

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

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

| | | 12 file ample of the comment |
|---|------------|--|
| Contract Purchaser/Lessee: | | <u>Legal Owner(s):</u> |
| | ŕ | Jesse Tighe (aka Jesse Bialek) |
| Name - Type or Print | Name - | Jesse Tighe (aka Jesse Blalek) Type or Print Bull B |
| Signature | | Signature Printer |
| Address | ephone No. | Anthony Bialek Name - Type or Print |
| City | Zip Code | Signature |
| Attorney For Petitioner: | | 2339 Poplar Road (443) 985-0811 Address Baltimore MD 21221-6127 |
| Name - Type or Print | City | State Zip Code Representative to be Contacted: |
| Signature | | Site Rite Surveying, Inc. |
| Company | | Name 200 E. Joppa Road, Room 101 (410) 828-9060 |
| Address | ephone No. | MD 21286 |
| State | Zip Code | Towson Zip Code City |
| $m = \sqrt{2} \sqrt{2} \sqrt{2} \sqrt{2} \sqrt{2} \sqrt{2} \sqrt{2} \sqrt{2}$ | | OFFICE USE ONLY ESTIMATED LENGTH OF HEARING |
| Case Ivo. | By_ | DINAVAILABLE FOR HEARING 7/05/06 |
| REV 9/15/98 | | |

REASONS TO ACCOMPANY PETITION FOR VARIANCE

- THIS LOT IS AN INDIVIDUAL PARCEL OF GROUND WITH A TAX ACCOUNT NUMBER. IT IS A LOT OF RECORD SHOWN ON THE "CEDAR BEACH" PLAT RECORDED IN NOVEMBER 1939. IT IS CONSISTENT IN SIZE WITH THE LOTS SHOWN ON SAID PLAT AND CURRENT OWNERSHIP WITH ADJACENT PARCELS.
- THERE ARE NO LOTS WITHIN 500 FEET OF THE SUBJECT PROPERTY THAT MEET THE CURRENT RC 5 ZONING REGULATIONS WITH REGARDS TO LOT AREA AND/OR SETBACKS; THEREFORE, THE PROPOSED DEVELOPMENT IS COMPATIBLE WITH THE SURROUNDING NEIGHBORHOOD.
- GRANTING RELIEF FROM THE ZONING REGULATIONS WILL NOT ADVERSELY AFFECT THE HEALTH, SAFETY OR GENERAL WELFARE OF THE NEIGHBORHOOD.
- STRICT COMPLIANCE WITH THE CUREENT ZONING REGULATIONS
 WILL BE BURDENSOME TO THE PROPERTY OWNER MAKING THIS
 LOT NON-BUILDABLE.

ZONING DESCRIPTION #2221 SILVER LANE

BEGINNING at a point on the south side of Silver Lane which is 40 feet wide at the distance of 626 feet northeasterly from the centerline of the intersection of Silver Lane and Marsh Road which is 40 feet and 25 feet wide respectively. Being Lot No. 9C in the subdivision of "Cedar Beach" as recorded in Baltimore County Plat Book #12, folio #90, containing 5,000 S.F. Also known as #2221 Silver Lane and located in the 15th Election District, 6th Councilmanic District.



Michael V. Moskunas Reg. No. 21175

Site Rite Surveying, Inc. 200 E. Joppa Road Suite 101 Towson MD 21286 (410) 828-9060

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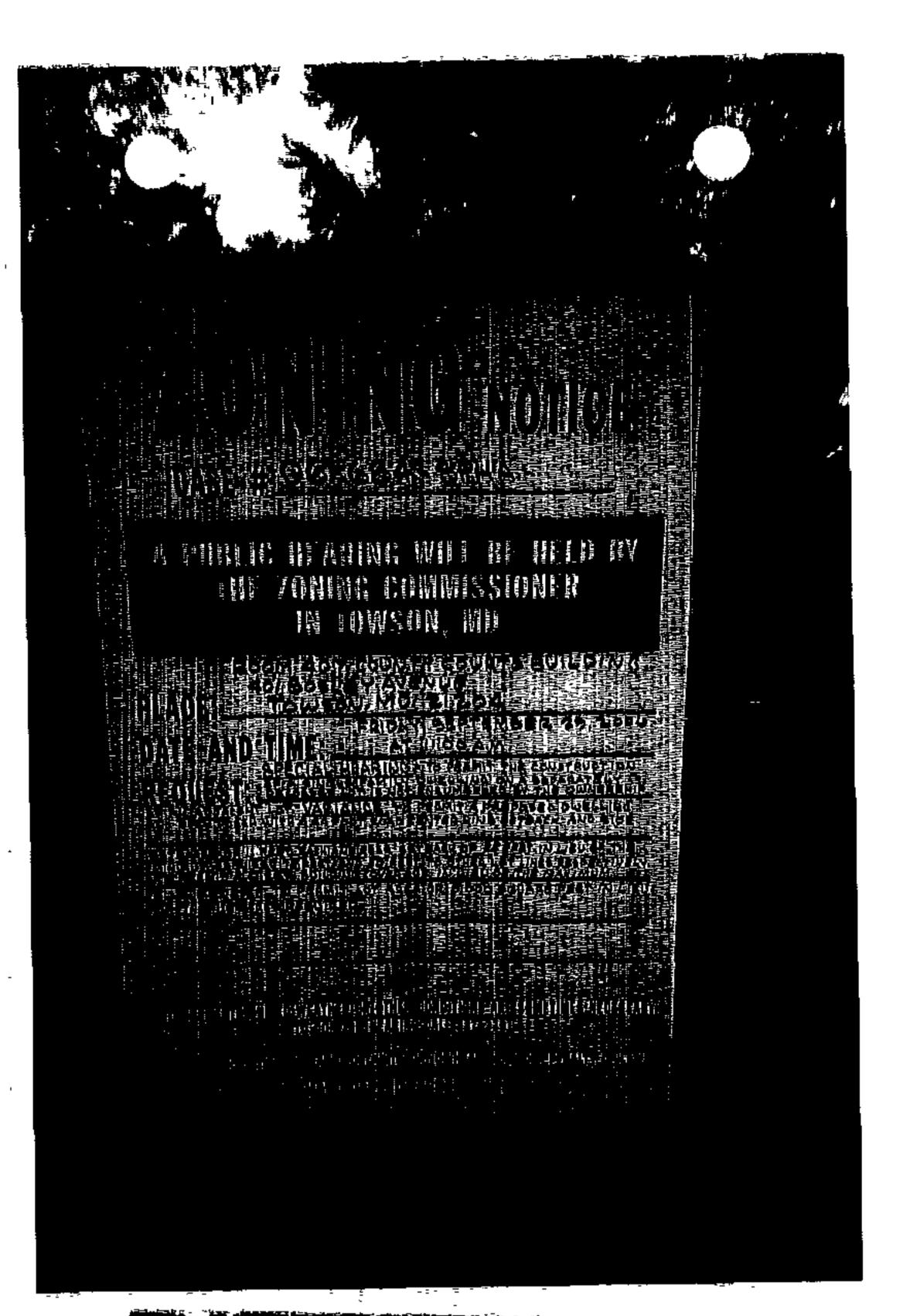
CERTIFICATE OF POSTING

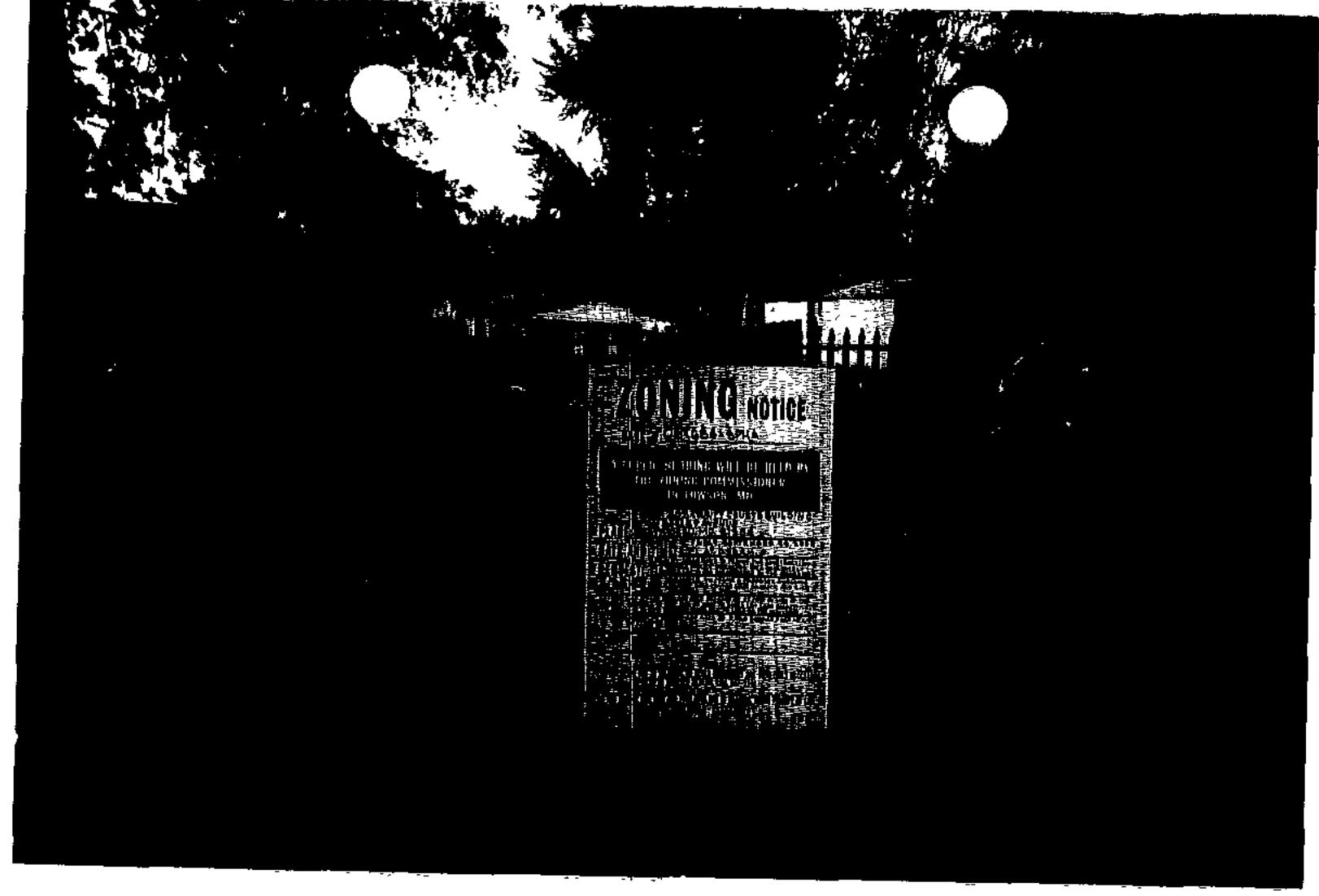
| Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204 | |
|--|--|
| Attention: Christen Matthews | • |
| Ladies and Gentlemen: This letter is to certify under the pena | alties of perjury that the necessary sign(s) |
| required by law were posted conspicuously on the propery lo | cated at |
| #ZZZI SILVE | EDLANG |
| | |
| | (Month, Day, Year) |
| | Sincerely, |
| | Barland Date) (Signature of Sign Poster and Date) |
| | CZAIZLAGED E. MOORE (Printed Name) |
| | 3225 RYGISON CIRCLE (Address) |
| | BAUTIMORE, MD, 21227 (City, State, Zip Code) |
| · · · · · · · · · · · · · · · · · · · | (Telephone Number) |

RE: Case No.: 06-684-5014

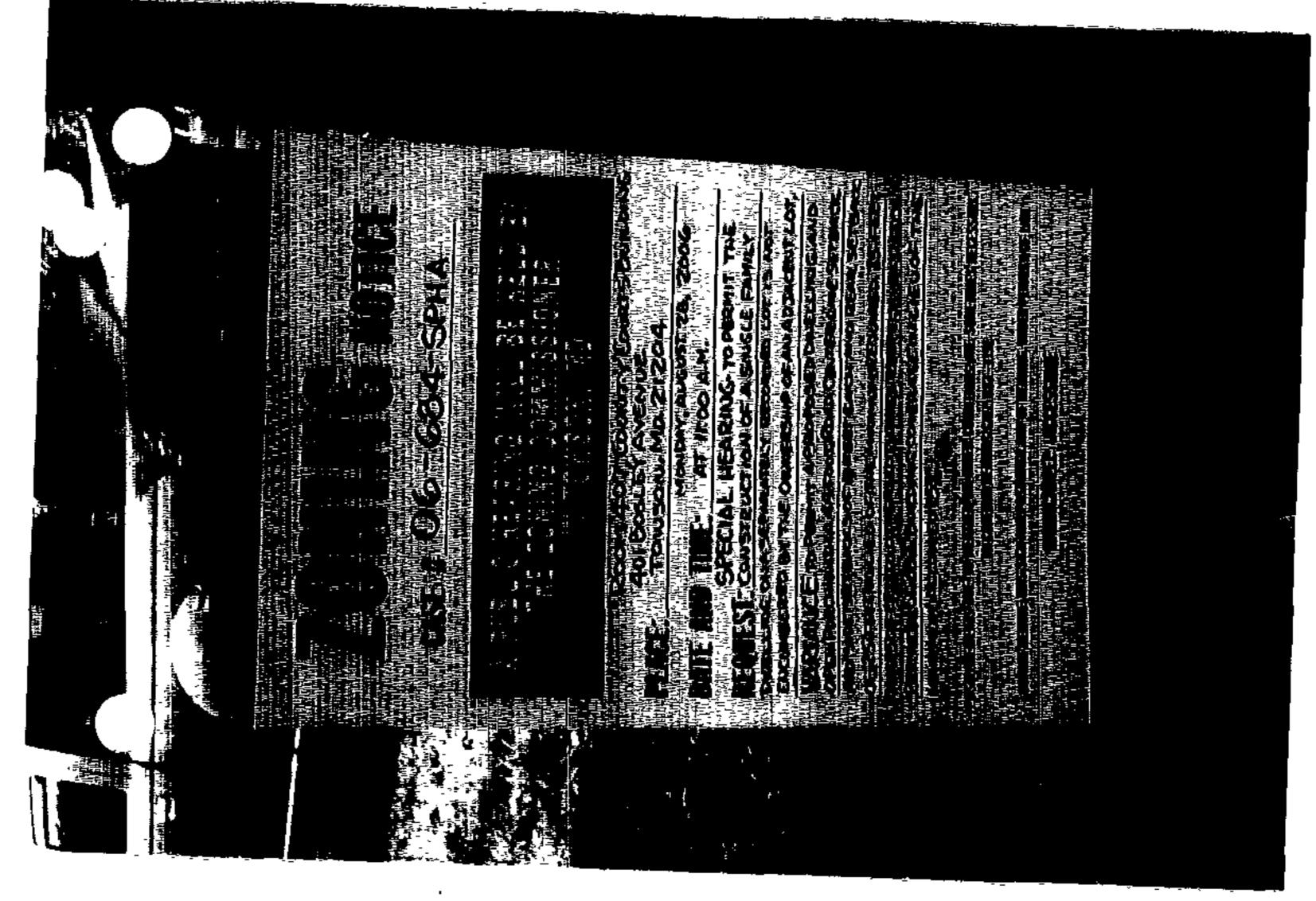
Date of Hearing/Closing: 3-29-06

Petitioner/Developer: BIALEK









CERTIFICATE OF POSTING

| Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204 | i |
|--|---|
| Attention: Christen Matthews | 1 |
| Ladies and Gentlemen: This letter is to certify under the p | enalties of perjury that the necessary sign(s) |
| required by law were posted conspicuously on the propery | / located at |
| #2221 SILVER | LARCE |
| | |
| The sign(s) were posted on All. | ZOOC (Month, Day, Year) |
| | Sincerely, Signature of Sign Poster and Date) |
| | CARLAGEDE, MOORE (Printed Name) |
| | 3225 RYSI2SON CIRCLE (Address) |
| | BAUTIMORE, MD, 21227 (City, State, Zip Code) |
| | (Telephone Number) |

RE: Case No.: 06-684-5PHA

Petitioner/Developer: BIALEK

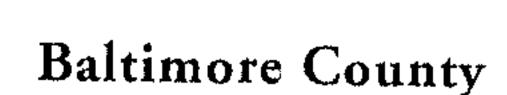
Date of Hearing/Closing: 8-28-06



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

July 13, 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: 06-684-SPHA

2221 Silver Lane
Southside of Silver Lane, 626 feet northeast of Marsh Road
15th Election District – 6th Councilmanic District
Legal Owners: Jesse Tighe (Bialek) and Anthony Bialek

Special Hearing to permit the construction of a single family dwelling on a separately recorded lot is not encumbered by the ownership of an adjacent lot. <u>Variance</u> to permit a proposed dwelling and open porch with a 44 foot road center line setback and side setbacks of 11 feet each and rear setback of 25 feet in lieu of the minimum required 75 feet and 50 feet to other lot lines respectively. To permit a 0.28% building coverage in lieu of the maximum allowed 15%.

Hearing: Monday, August 28, 2006 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco Director

TK:klm

C: Mr. & Mrs. Bialek, 2339 Poplar Road, Baltimore 21221-6127 Site Rite Surveying, Inc., 200 E. Joppa Road, Rm. 101, Towson 21286

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, AUGUST 12, 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.baltimorecountyonline.info



TO: PATUXENT PUBLISHING COMPANY

Thursday, August 10, 2006 Issue - Jeffersonian

Please forward billing to:

Jesse Bialek 2339 Poplar Road Baltimore, MD 21221-6127

443-985-0811

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:

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WILLIAM J. WISEMAN III

ZONING COMMISSIONER FOR BALTIMORE COUNTY

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(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 <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.

| For Newspaper Advertising: |
|---|
| Item Number or Case Number: 6664 SPHA |
| Petitioner: Jesse Tighe (n.K.a. Jesse Blatek) |
| Address or Location: SIWW Law |
| |
| PLEASE FORWARD ADVERTISING BILL TO: |
| Name: Jusse Brawic |
| Address: 2339 Poplar Foad Bathmore, MD 21221-6127 |
| Baltimore, MD 21221-6127 |
| |
| Telephone Number: 443 985-08 |



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director

Department of Permits and

August 23, 2006

Department of Permits and Development Management

Jesse Tighe (aka Jesse Bialek) Anthony Bialek 2339 Poplar Road Baltimore, MD 21221-6127

Dear Mr. and Mrs. Bialek:

RE: Case Number: 06-684-SPHA, 2221 Silver Lane

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

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

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

Very truly yours,

W. Carl Richards, Jr.

Supervisor, Zoning Review

u. Callibal)

WCR:amf

Enclosures

c: People's Counsel Site Rite Surveying, Inc. 200 E. Joppa Road, Room 101 Towson 21286

Fire Department

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



Baltimore County

James T. Smith, Jr., County Executive John J. Hohman, Chief

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

July 13,2006

ATTENTION: Zoning Review Planners

Distribution Meeting of: July 10,2006

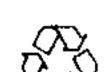
Item No.: 638, 675, 676, 677, 678, 679, 680, 681, 682, 683, (684) 685, 686,

687 and 688.

Pursuant to your request, the referenced plan(s) have been reviewed by the Fire Marshal's Office and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

The Fire Marshal's Office has no comments at this time.

Acting Lieutenant Don W. Muddiman Fire Marshal's Office 410-887-4880 MS-1102F





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

Maryland Department of Transportation

Date: 7.11.074

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

RE:

Baltimore County

Item No. 684

JLL

Dear. Ms. Matthews:

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

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

Very truly yours,

Steven D. Foster, Chief

Engineering Access Permits Division

1. 1. Doedh

Jan 8/28

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: July 17, 2006

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

RECEIVED

SUBJECT:

2221 Silver Lane

JUL 2 6 2006

INFORMATION:

Item Number:

6-684

ZONING COMMISSIONER

Petitioner:

Jesse Tighe

Zoning:

RC 5

Requested Action:

Variance and Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the subject request and has determined that the petitioner does not own sufficient adjoining land to conform to the minimum width and area requirements and therefore does meet the standards stated in Section 304.1.C of the BCZR. Additionally, there appears to be several existing undersized lots in the neighborhood. As such, this office does not oppose the petitioner's request.

However, this office is required to provide a statement of finding to the Zoning Commissioner indicating how the proposed construction complies with the current RC 5 requirements. To prepare the statement of finding, the following information must be submitted to this office:

- 1. Photographs of existing adjacent dwellings.
- 2. Submit building elevations (all sides) of the proposed dwelling to this office for review and approval prior to the hearing. The proposed dwelling shall be compatible in size and architectural detail as that of the existing dwellings in the area. Ensure that the exterior of the proposed building(s) uses the same finish materials and architectural details on the front, side, and rear elevations. Use of quality material such as brick, stone, or cedar is encouraged.

90808 80808

- 3. Design all decks, balconies, windows, dormers, chimneys, and porches as a component of the building following dominant building lines. Decks shall be screened to minimize visibility from a public street.
- 4. Design all accessory structures at a scale appropriate to the dwelling and design garages with the same architectural theme as the principal building on the site, providing consistency in materials, colors, roof pitch, and style.
- 5. Provide landscaping along the public road, if it is consistent with the existing streetscape.

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

Prepared By:

Division Chief:

CM/LL

W\DEVREV\ZAC\6-684 doc

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

AUG 2 5 2006

ZONING COMMISSIONER

TO:

Timothy M. Kotroco

FROM:

Dave Lykens, DEPRM - Development Coordination JWL

DATE:

August 22, 2006

SUBJECT:

Zoning Item

06-684-SPHA

Address

2221 Silver Lane

(Tighe/Bialek Property)

Zoning Advisory Committee Meeting of July 10, 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.

Reviewer:

Kevin Brittingham

Date:

July 20, 2006

S:\Devcoord\1 ZAC-Zoning Petitions\ZAC 2006\ZAC 06-684-SPHA.doc

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Tr nothy M. Kotroco, Director

DATE: July 13, 2006

Department of Permits & Development

M nagement

FROM:

De mis A. Kennedy, Supervisor

Bu eau of Development Plans Review

SUBJECT:

Louing Advisory Committee Meeting

o July 17, 2006

Item Nos. 623, 638, 674, 675, 676, 677, 679, 680, 683, 684, 685, 686, 687, and 688

The Bureau of Development Plans Review has reviewed the subject zoning items, and we have 10 comments.

DAK:CEN:clw

cc: File

ZAC-NO COMMEN" S-1 7132006.doc

RE: PETITION FOR SPECIAL HEARING

AND VARIANCE

2221 Silver Ln; S/S Silver Ln, 626' NE Marsh Rd*

15th Election & 6th Councilmanic Districts

Legal Owner(s): Jesse Tighe & Anthony Bialek*

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

06-684-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/documentation filed in the case.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

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 17th day of July, 2006, a copy of the foregoing Entry of Appearance was mailed Site Rite Surveying, Inc, 200 E Joppa Road, Suite 101, Towson, MD 21286, Representative for Petitioner(s).

RECEIVED

1 7 2006

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County.

Per.....

DIRECT CORRESPONDENCE TO:

Shell Building, Room 101 200 East Joppa Road Towson, Maryland 21286

SEP 1 4 2006

| | | | | 10-828-9060 k 410-828-9066 | • | |
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| TO. 701 | MINING CO | mmissioner | | DATE: | 9 13/11 | G COMMISSIONER |
| 10: 00. | | | - 00100 | _ DATE | CT: Case No 06 | 5-684-SPHA |
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| Dep | | on. Comm. | | | Q2- | 72 |
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| WE ARE | HER UND | EWITH ER SEPERATE CO | OVER, TRANSMI | TTING VIA, | MESSENGER U.S. MAIL (|) THE FOLLOWING: |
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| SENT BY | BIMMA | while. Mosk | nnas | DATE: | · · · · · · · · · · · · · · · · · · · | |

John V. Murphy Deputy Zoning Commissioner **Baltimore County Government** Office Of The Zoning Commissioner County Courts Building, Fourth Floor 401 Bosley Avenue, Towson, MD 21204

September 11, 2006

Dear Mr. Murphy,

After speaking with Tony and Jessie Bialek owners of 2339 Poplar Road and the adjacent lot on Silver Lane. We the neighbors have been duly informed of the proposed development of a single family 2-story dwelling on their Silver Lane lot and have no objections to its construction.

2219 Silver Lane owners: John and Carolyn Brodowski

printed name: John W. Brodowsk: Carofn & Bund

signature and date: John W brokenship a/11/06 CArolin D Brodowli

2230 Silver Lane owners: James and Susan Stone

printed name: Susan Stone signature and date: Susan Shope

2337 Poplar Road owners: Harry and Muriel Sample. The house is a rental property and Muriel Sample passed away last week, therefore we are not going to be getting their signatures at this time, due to his loss.

CASE NAME 2221 SILVEN LAME
CASE NUMBER 06-684-SPHA
DATE 8 28 2006

PETITIONER'S SIGN-IN SHEET

| Jessieabialeke metro. | ESSEX, LAD 21221 | 7339 taplar 12d. | Jassie & Joury Dialex |
|-----------------------|------------------|------------------|-----------------------|
| ol. con | Towson, MO 21286 | ے ار | SIX RIX SMMMINU INC. |
| E- MAIL | CITY, STATE, ZIP | ADDRESS | NAME Moskumas |

ArcIMS Viewer Page 1 of 1

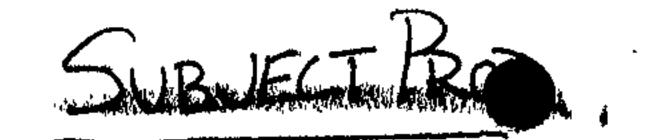


POB 626 NE & OF THE INTERSECTION OF MARSH POAD



Zoming Map: 098A3 #2221 Silver Lane Bathinore County, MD

400



Click here for a plain text ADA compliant screen.



Maryland Department of Assessments and Taxation BALTIMORE COUNTY
Real Property Data Search

Go Back View Map New Search Ground Rent

Account Identifier:

District - 15 Account Number - 1502955061

Owner Information

Owner Name:

TIGHE JESSE

BIALEK ANTHONY

Use:

RESIDENTIAL

DIALEK ANTHON

Principal Residence:

NO

Mailing Address:

2339 POPLAR RD

BALTIMORE MD 21221-6127

Deed Reference:

1) /21818/ 377

2)

Location & Structure Information

Premises Address

SILVER LA

Legal Description

Map Grid Parcel Sub District

Subdivision

Section Block Lot

CEDAR BEACH
Assessment Area

Plat No: Plat Ref: 12/90

98 20 323

Special Tax Areas

Stories

Town

Ad Valorem Tax Class

Primary Structure Built

Enclosed Area

Property Land Area 5,000.00 SF

County Use

04

0000

Basement

Type

9C

Exterior

Value Information

| | Base | Value | Phase-in Ass | essments |
|--------------------|-------|------------|--------------|------------|
| | Value | As Of | As Of | As Of |
| | , | 01/01/2006 | 07/01/2005 | 07/01/2006 |
| Land: | 5,000 | 5,000 | | |
| Improvements: | 0 | 0 | | |
| Total: | 5,000 | 5,000 | 5,000 | 5,000 |
| Preferential Land: | 0 | 0 | 0 | 0 |

Transfer Information

| | TIGHE JAMES WILLIAM MULT ACCTS ARMS-LENGTH | Date: 05/05/2005 Price: \$93,000 Deed1: /21818/ 377 Deed2: |
|---------|--|---|
| Seller: | SAMPLE HARRY A MULT ACCTS ARMS-LENGTH | Date: 06/18/2002 Price: \$77,000 Deed1: /16528/ 196 Deed2: |
| Seller: | BYER KATHERINE J NOT ARMS-LENGTH | Date: 06/07/1977 Price: \$0 Deed1: / 5761/ 341 Deed2: |

Exemption Information

| Partial Exempt Assessments | Class | 07/01/2005 | 07/01/2006 | |
|----------------------------|--------------|------------|------------|--|
| County | 000 | 0 | 0 | |
| State | 000 | 0 | 0 | |
| Municipal | 000 | 0 | 0 | |

Tax Exempt:

NO

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ain text ADA compliant screen.

, land Department of Assessments and Taxation ALTIMORE COUNTY Real Property Data Search

Go Back View Map **New Search Ground Rent**

Account Identifier:

District - 15 Account Number - 1502955062

Owner Information

Owner Name:

BIALEK JESSIE

BIALEK ANTHONY

Use:

RESIDENTIAL

Principal Residence:

YES

Mailing Address:

2339 POPLAR RD

Sub District

BALTIMORE MD 21221-6127

Deed Reference:

1) /21818/ 377

Location & Structure Information

Block

Premises Address

2339 POPLAR RD

Map Grid

98

Legal Description

2339 POPLAR RD

CEDAR BEACH

Assessment Area

Plat No: Plat Ref:

12/90

Special Tax Areas

20

Ad Valorem

Subdivision

Tax Class Primary Structure Built

Enclosed Area 614 SF

Property Land Area 6,900.00 SF

County Use 04

Stories

Parcel

323

1939

Basement

Town

Section

Type

As Of

77,020

07/01/2006

Exterior

NO

STANDARD UNIT

Lot

120B

SIDING

Value Information

| | Base Value | Value As Of | Phase-in Assessments | |
|-------------------|---------------|-----------------------|----------------------|----------|
| | | | As Of | Aş |
| | | 01/01/2006 | 07/01/2005 | 07/01/20 |
| Land: | 31,900 | 61,900 | | |
| Improvements: | 30,460 | 44,440 | | |
| Total: | 62,360 | 106,340 | 62,360 | 77,0 |
| referential Land: | · O | 0 | 0 | |

000

Transfer Information

TIGHE JAMES WILLIAM Seller: Type:

MULT ACCTS ARMS-LENGTH

SAMPLE HARRY A Seller: MULT ACCTS ARMS-LENGTH

Seller: BYER KATHERINE J **NOT ARMS-LENGTH** Type:

05/05/2005 Date: Deed1: /21818/ 377

Deed1: / 5761/ 341

Date:

Date:

06/18/2002 Deed1: /16528/ 196

06/07/1977

0

\$93,000 Price: Deed2:

\$77,000

Deed2: Price: \$0 Deed2:

Price:

Exemption Information

Ø

07/01/2006 07/01/2005 Partial Exempt Assessments Class 000 000

Municipal

Tax Exempt:

Exempt Class:

County

State

Type:

NO

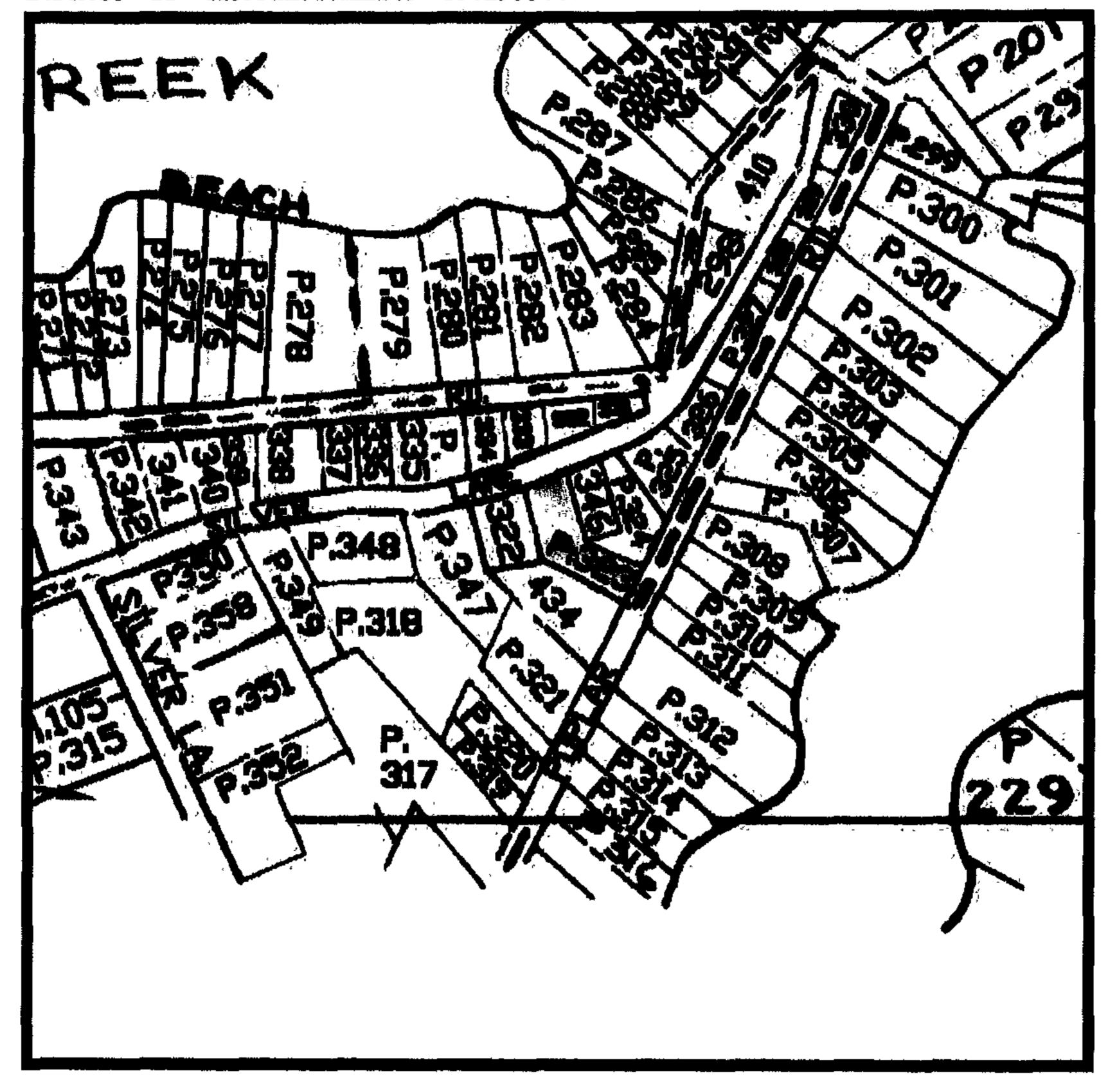
Special Tax Recapture:

* NONE *

Maryland Department of Assessments and Taxation BALTIMORE COUNTY
Real Property Data Search

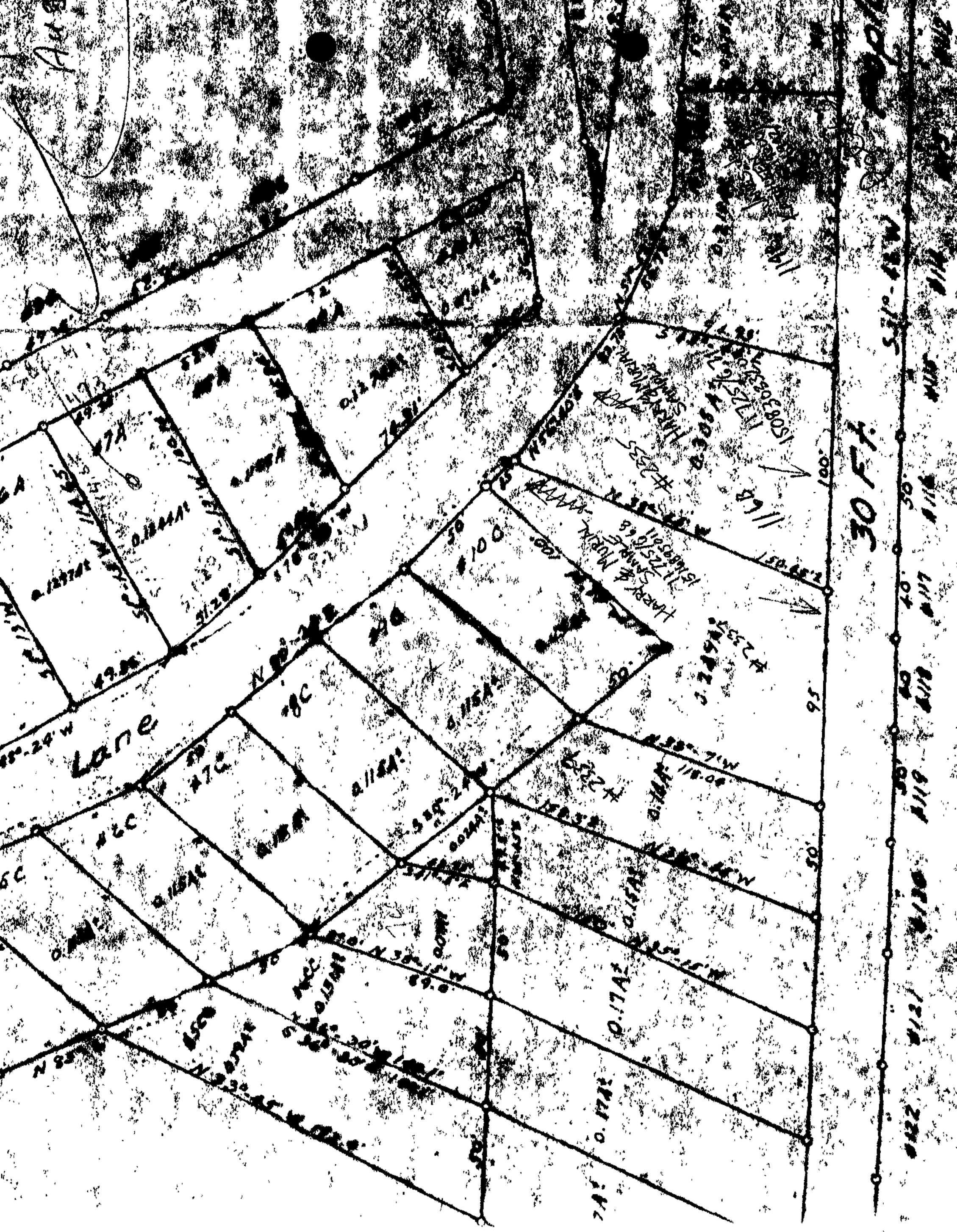
Go Back View Map New Search

District - 15 Account Number - 1502955061



Property maps provided courtesy of the Maryland Department of Planning ©2004. For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/webcom/index.html

Path



⊿imark Title Co. Inc .. Padonia Road Suite 506 Timonium, MD 21093 Phone: 410-667-0600

FEE SIMPLE DEED

#205047

THIS DEED, made this 27th day of April, 2005 by and between James William Tighe and Bonny Jean Tighe, Grantors, parties of the first part and residents of the State of Maryland, and Jessie Tighe and Anthony Bialek, Grantees, parties of the second part.

WITNESSETH, That in consideration of the sum of Ninety-Three Thousand and 00/100 (\$93,000.00), and other good and valuable considerations, the receipt which is hereby acknowledged, the said parties of the first part do grant and convey to the said parties of the second part, as Joint Tenants, and to the survivor of them, and to their heirs, personal representatives and assigns, in Fee Simple, all that lot of ground situate in Baltimore County, Maryland and described as follows, that is to say:

> BEGINNING FOR THE FIRST thereof at a point on the Northerly side of Poplar Road, said point is located North 35 degrees 15 minutes West 32 58/100 feet from the Southwest corner of Lot No. 120 as shown on the Plat of Cedar Beach, Inc. which plat is duly filed among the Land Records of Baltimore County in Liber WPC No. 7 folio 186, etc., thence North 36 degrees 45 minutes West 158 3/10 feet more or less to the Southwest corner of a lot known as lot No. 9-C, thence bounding said Lot North 80 degrees 24 minutes East 50 feet; thence South 38 degrees 7 minutes East 118 04/100 feet to Poplar Road, thence bounding Poplar Road South 31 degrees 46 minutes West 50 feet to the point of beginning. Containing 14/100 acres of land, more or less.

BEGINNING FOR THE SECOND thereof at a point which is located North 36 degrees 45 minutes West 190 88/100 feet, more or less, from the West corner of Lot No. 120 of Cedar Beach, located on the East side of Poplar Road, as shown on the Plat of a portion of Cedar Beach, prepared by Herman H. Roemer dated March 6, 1939 and recorded among the Plat Records of Baltimore County prior hereto, and running thence North 17 degrees 42 minutes West 100 feet to a point on the South side of Silver Lane, 40 feet wide which point is distant 400 feet Easterly along said side of Silver Lane from the Easternmost corner of the two acre tract of land heretofore conveyed by George L. Schnader; and thence continuing Easterly along the South side of Silver Lane North 80 degrees 24 minutes East 50 feet, thence South 17 degrees 42 minutes East 100 feet and thence South 80 degrees 24 minutes West 50 feet to the place of beginning. Being the lot known as No. 9-C as shown on the plat above referred to and containing 115/1000 acres of land more or less.

BEING the same two lots of land which by Deed dated May 29, 2002 and recorded among the Land Records of Baltimore County in Liber 16528 folio 196 was granted and conveyed by Harry A. Sample and Muriel E. Sample to James William Tighe and Bonny Jean Tighe, the herein grantors.

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises to the said parties of the second part as Joint Tenants, and to the survivor of them, and to their heirs, personal representatives and assigns, in Fee Simple.

AND the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

WITNESS the hand and seal of said Grantors and Grantees.

TEST:

James William Tighe, Grantor

Bonny Jean Tighe, Grantor

hissilteet

Vessje Tighe, Grantee

4.27.06SEAL

Anthony Bialek, Grantee

STATE OF MARYLAND, Baltimore County, to wit:

I HEREBY CERTIFY that on this 27th day of April, 2005 before me, the subscriber, a Notary Public of the State aforesaid, personally appeared James William Tighe and Bonny Jean Tighe known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same.

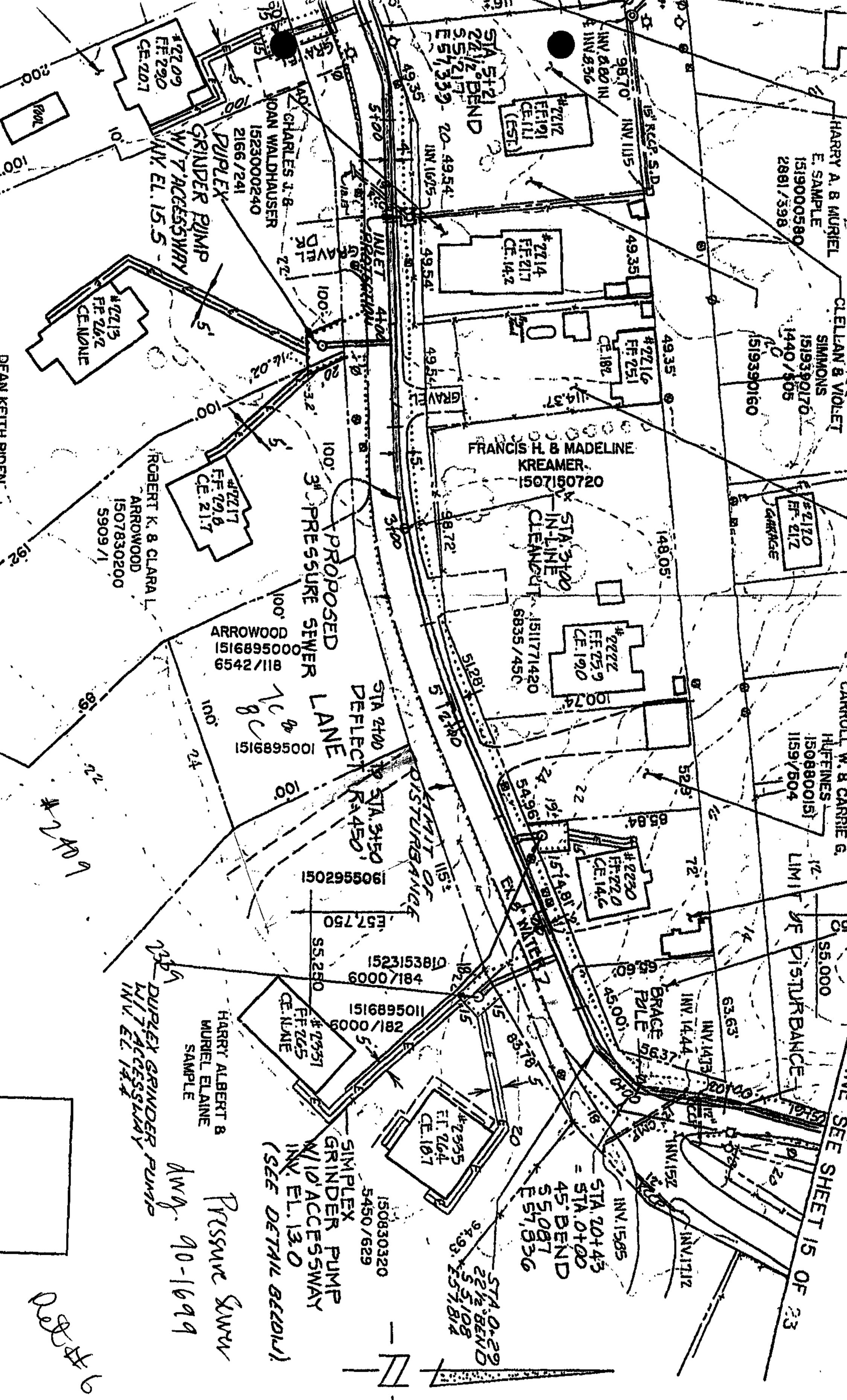
IN WITNESS WHEREOF, I hereupto set my hand and official seal,

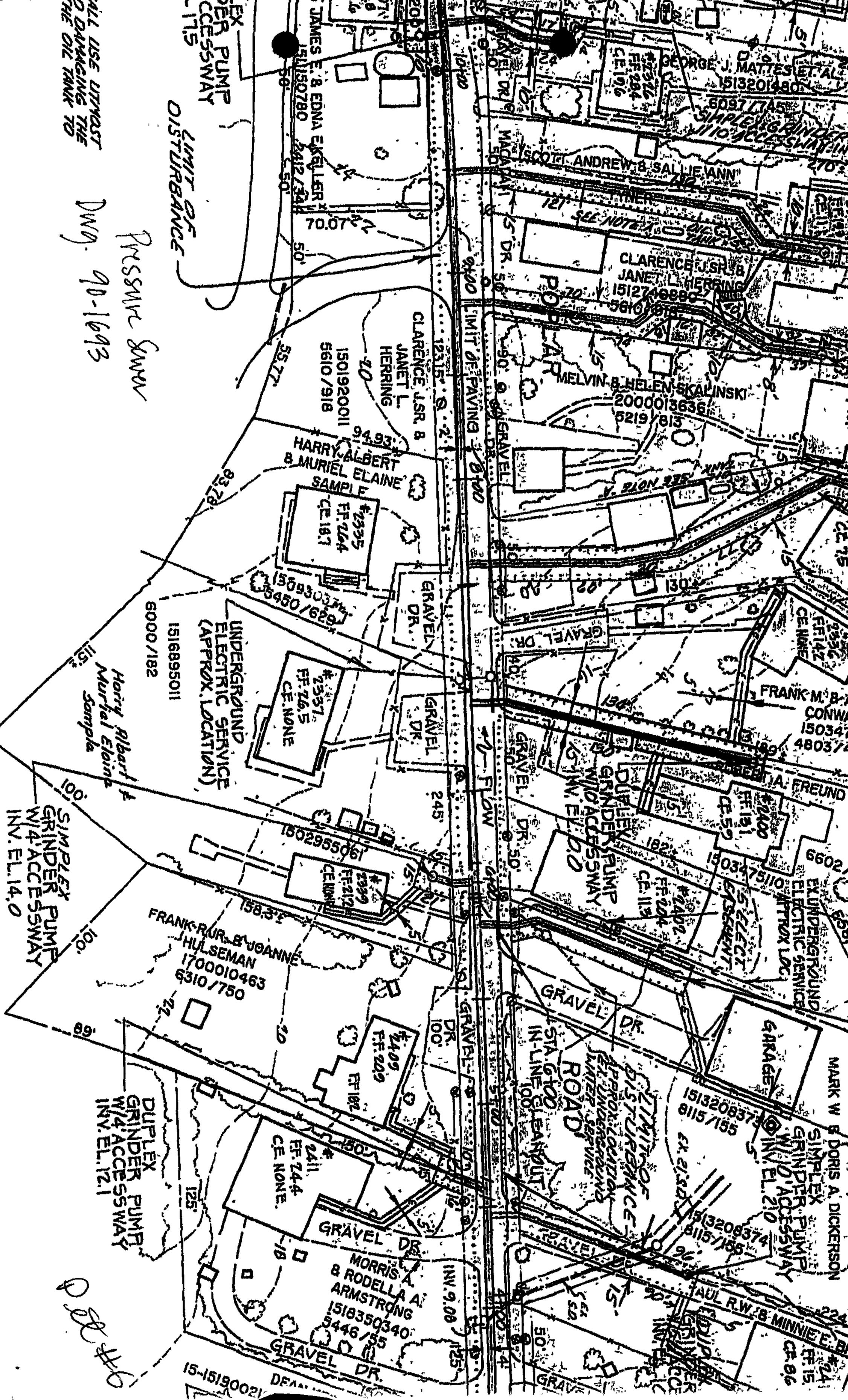
NOTARY PUBLIC

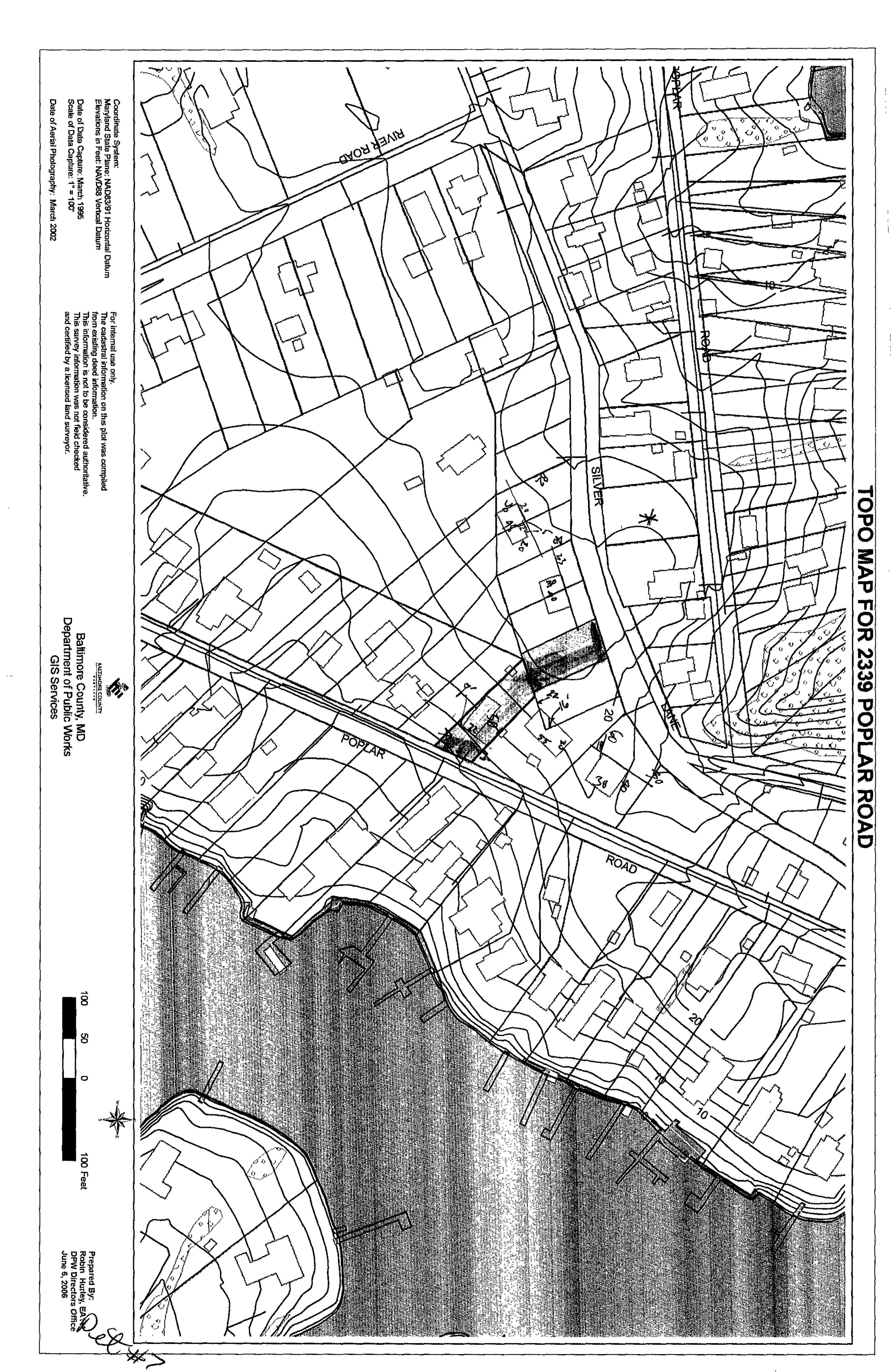
My Commission Expires Otary Public

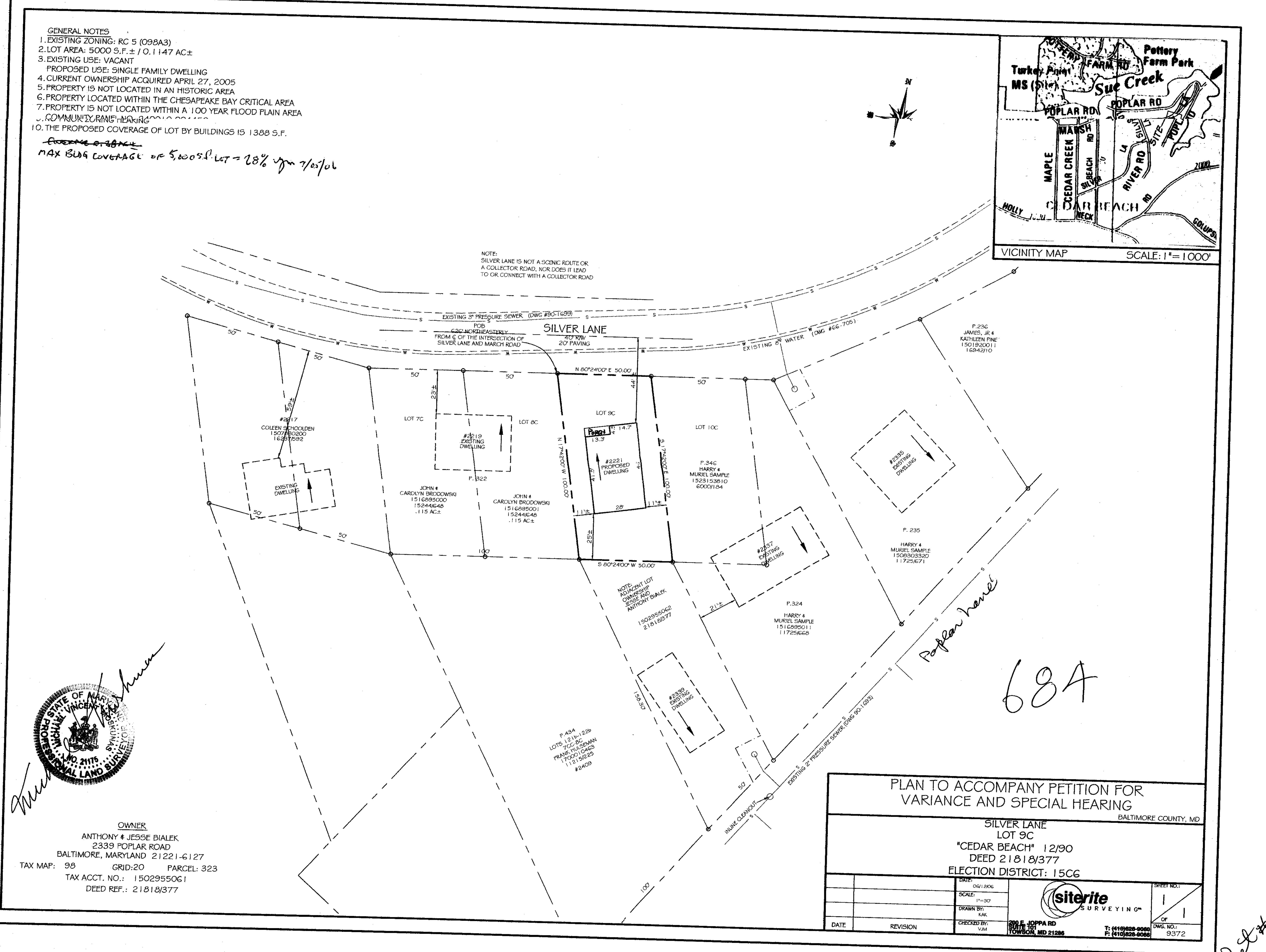
January 1, 2008

My Commission Expires:









to the subject lot. They propose to move into the new house as their primary residence once completed and lease their existing home.

The new house would be 28 feet wide allowing 11 feet for a side yard setbacks as shown. Ms. Moskunas indicated that a 50 foot wide lot can not possibly meet the 50 foot side yard setback requirements. With a lot 100 feet long, no building could occur on the property and meet the 75 foot front distance setback from the centerline of the road and the 50 foot requirement to the rear lot line. Although the Petitioners own the lot behind this lot on Poplar Lane (lot 120), the Poplar Lane lot is too small to give up property by lot line adjustment to solve the front and rear setback requirements on the subject property.

In regard to the issue of zoning merger, the Petitioners pointed out that the two lots are separately described in exhibit 3, have separate tax account numbers as shown in exhibit 4, and are not side by side but front to back as shown on exhibit 1.

Regarding pattern of development on the neighborhood, Ms. Moskunas indicated that virtually all of the homes along the waterfront have one house on each 50 foot lot and that many of the homes on Poplar Road and Silver Lane similarly are one house on 50 foot lots. See Petitioner's exhibit 7. However she admitted that there are many homes in the neighborhood which have two lots.

Findings of Fact and Conclusions of Law

In regard to the issue of zoning merger, I note that the subject lot fronts on Silver Lane and Petitioners own lot 120 which backs up to the subject property. The house on lot 120 fronts on Poplar Road. While the doctrine of zoning merger is new to Maryland, it has been applied for generations in other states which also recognize the doctrine. As such the Maryland Court of Appeals often recognizes cases from other states that accept the doctrine as a means of fleshing

NOTICE OF ZONE あまる場の

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: #06-684-SPHA

2221 Silver Lane
Southside of Silver Lane, 626 feet northeast of Marsh Road

15th Election District — 6th Councilmanic District
Legal Owner(s): Jesse Tighe (Bialek) and Anthony Bialek
Special Hearing: to permit the construction of a single family dwelling on a separately recorded lot is not encumbered by the ownership of an adjacent lot. Variance: to permit a proposed dwelling and open porch with a 44 foot road center line setback and side setbacks of 11 feet each and rear setback of 25 feet in lieu of the minimum required 75 feet and 50 feet to other lot lines respectively. To permit a 0.28% building coverage in lieu of the maximum allowed 15%. To permit lot area of 5,000 square feet in lieu of the 1.5 acres required.

Hearing: Friday, September 29, 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) 887-3868.

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

9/110 September 14

| | 9/14,2006 |
|--------------------|---|
| THIS IS TO CERTIFY | CERTIFY, that the annexed advertisement was published |
| in the following | in the following weekly newspaper published in Baltimore County, Md., |
| once in each of | successive weeks, the first publication appearing |
| $\frac{q}{l}$ | |

published

LEGAL ADVERTISING

NOTICE OF ZOMING 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: #06-684-SPHA

2221 Silver Lane
Southside of Silver Lane, 626 feet northeast of Marsh Road
15th Election District - 6th Councilmanic District
Legal Owner(s): Jesse Tighe (Bialek) and Anthony Bialek
Special Hearing: to permit the construction of a single family dwelling on a separately recorded lot is not encumbered by the ownership of an adjacent lot. Variance: to permit a proposed dwelling and open porch with a 44 foot road centerline setback and side setbacks of 11 feet each and rear setback of 25 feet in lieu of the minimum required 75 feet and 50 feet to other lot lines respectively. To permit a .028% building coverage in lieu of the maximum allowed 15%.

Hearing: Monday, August 28, 2006 at 11:00 a.m. in Roam 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.

8/091 Aug. 10

__, 20<u>O</u>6

in the following weekly newspaper published in Baltimore County, Md., once in each of THIS IS TO CERTIFY, that the annexed advertisement was published 810 ,20 Ob successive weeks, the first publication appearing

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

Member GAL ADVERTISING