IN RE: PETITIONS FOR VARIANCE

NE/S Link Avenue, 545' NW of c/l Belair Rd.

(4108 Link Avenue); and

SW/S Silver Spring Road, 682' NW of c/l

Belair Road

(4105 Silver Spring Road)

11th Election District

6th Council District

BEFORE THE

ZONING COMMISSIONER

OF

* BALTIMORE COUNTY

* Case Nos. 07-147-A & 07-148-A

Anthony M. Greaver, et al Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Variance filed by the owners of the subject property, Anthony Greaver and his daughter, Lauren Greaver. The Petitioners wish to subdivide their property to create a second building lot. Since the properties will abut one another, the two cases were heard contemporaneously. In both instances, relief is requested, pursuant to Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). In Case No. 07-147-A, the Petitioners request a variance to permit a lot width of 50 feet in lieu of the minimum required lot width of 55 feet. In Case No. 07-148-A, the Petitioners request similar relief to permit a lot width of 50 feet in lieu of the minimum required 55 feet for a proposed dwelling (4105 Silver Spring Road). The proposed subdivision, subject property and requested relief are more particularly described on the redlined site plan submitted in each case, which was accepted into evidence and respectively marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the requests were Anthony Greaver, property owner, and Bernadette Moskunas with Site Rite Surveying, Inc., the consultants who prepared the site plan for these property(s). Appearing as Protestants/interested citizens were Linda M. Zmijewski, who resides at 4110 Link

100-01-

Avenue, and Dreama D. Tesar who lives opposite from the Petitioners at 4109 Link Avenue. It is further noted that Ms. Zmijewski presented a petition signed by other members of the community (Protestants Exhibit 2) who also oppose the requests because of possible adverse impact to the neighborhood.

Testimony and evidence offered revealed that the subject property is 50 feet wide and nearly 400 feet deep and abuts Link Avenue in the front and Silver Spring Road in the rear. The lot is identified as Lot 67 of Fullerton Farms, which is an older subdivision that was platted and recorded in the Land Records in 1922, prior to the first set of zoning regulations in Baltimore County. As is often the case with older subdivisions, many of the lots are undersized and do not meet current width requirements. In this regard, the subject lot contains a gross area of 17,253.59 square feet or 0.396 acres, more or less, zoned D.R.5.5 requiring a minimum lot width of 55 feet. The Petitioner is proposing to subdivide this existing lot of record into two separate lots. One lot (Lot 67 - 4108 Link Avenue) is improved with an existing 1-1/2 story brick dwelling fronting on Link Avenue and will be 50' x 139' or 6,978 square feet. The second proposed lot (Lot 67A - 4105 Silver Spring Road) fronting on Silver Spring Road will measure 50' x 213.38' or 10,276 square feet and created for a second building lot for a new single family dwelling 30' x 45' for either the Petitioners' family use or to sell. Due to the narrow width of the properties, the requested variances are necessary to legitimize existing conditions and to proceed with the proposed improvements. The new dwelling will meet all front, side and rear setback requirements.

Ms. Moskunas noted that public water and sewer would serve the new lot (see Petitioners' Exhibit 2A). Moreover, she points to the precedent previously established for neighboring properties just east of the Petitioners. See minor subdivision approvals 96-055M and 96-056M submitted as Petitioners' Exhibits 2B and 2C for Lots 65A and

65B. She further addressed the Office of Planning comment prepared by Laurie Hay. Ms. Hay indicated that the Office is concerned about the number of potential driveways being created along Silver Spring Road. She (Hay) asks that the proposed driveway servicing Lot 67A be relocated to either adjacent Lot 66 or Lot 68 and have the Petitioners provide an access agreement for the adjacent property owner so that a single curb cut can be shared by two lots. Ms. Moskunas points out that existing utilities – a fire hydrant on one side, a manhole and storm drain structures on the other side mitigate against this. Secondly, she questions how such a condition can legally be imposed on adjacent property owners. In my view, given the strained relationship between the parties involved, such a recommendation is not feasible and unnecessary. With regard to "turn around room" on the lot so cars do not back out onto Silver Spring Road, I note that this has been duly noted and provided for on the red-lined site plan. In this regard, the Petitioners shall comply with this and the other requests as recommended.

As indicated above, Ms. Zmijewski appeared and testified in opposition to the request. Ms. Zmijewski has owned and resided on the adjacent property (Lot 68 – west side) for over 10 years. She is generally opposed to the request and believes that the construction of a new dwelling will result in increased storm water run off that will aggravate flooding conditions she experiences towards the rear of her property. She presented photographs (Petitioners' Exhibits 1A-1F) demonstrating her property is lower in elevation than other lots and that the existing inlet and concrete flume (located on her property and shown on Petitioners' Exhibit 1) that was designed to carry off storm water is inadequate. Ms. Zmijewski and Ms. Tesar as well as other residents indicate they would prefer to see the proposed lot remain undeveloped. In response to these concerns, Ms. Moskunas and Anthony Greaver have provided evidence that they contacted officials in the County's storm drain department and after a thorough search of the records for this

location found no complaints of storm water run off problems. Ms. Greaver indicated in a written letter that she walks the back portion of the lot frequently and has never seen flooding or ponding water of any kind.

After due consideration of the testimony and evidence presented, I am persuaded to grant the variances requested. In my judgment, and that of Deputy Zoning Commissioner Kotroco in similar cases 97-21-A through 97-24-A, the Petitioner has complied with the requirements of Section 307 of the B.C.Z.R. and the case law establishing that the subject property(s) contain unique characteristics. As noted above, the property was recorded as a lot of record prior to the effective date of the D.R.5.5 zoning regulations. Section 304.1 of the B.C.Z.R. provides that a single family detached dwelling may be erected on a lot having an area or width at the building line less than that required by the current bulk and/or area regulations if such lot has been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955. I find, therefore, that strict compliance with the regulations would result in a practical difficulty or unreasonable hardship for the Petitioners and that their proposed development meets the spirit and intent of the D.R.5.5 zoning regulations. Moreover, I find that the proposed development is consistent with the character of other development in the neighborhood and will not result in any detriment to the health, safety or general welfare of the surrounding locale. Thus, I am persuaded that the relief requested is appropriate in this instance and should be granted.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this _____ day of January, 2007 that the Petition for Variance filed in Case No. 07-147-A seeking approval of a variance from Section 1B02.3.C.1 of the Baltimore County

Date 1-10-07 1 1111

Zoning Regulations (B.C.Z.R.) to permit an existing dwelling to have a lot width of 50 feet in lieu of the required 55 feet, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Variance filed in Case No. 07-148-A seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed dwelling to be constructed on a lot with a width of 50 feet in lieu of the required 55 feet, known as 4105 Silver Spring Road, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) ADVISORY: This Order approves the requested variances but does not address the proposed subdivision. The Petitioners subdivision proposal to create the proposed Lot 67A must be submitted to the Development Review Committee for consideration and processing.
- 2) Prior to the issuance of any permits, the Petitioners shall submit building elevation drawings of the proposed dwelling to the Office of Planning for review and approval with the exception of comment #1, the dwelling shall be constructed in accordance with the architectural design and landscaping requirements set forth in the Office of Planning's remarks dated November 16, 2006, a copy of which is attached hereto and made a part hereof.
- 3) To insure all run off will be conveyed to a suitable outfall without imposing an adverse impact on adjacent properties, I shall impose as a condition to receiving approvals on future construction permits for Lot 67A, that Petitioners shall address storm water management regulations in accordance with Baltimore County Council Bill No. 53-01 and the Minor Subdivision Checklist No. 2.
- 4) The conditions of this Order must be referenced on the Minor Subdivision Plan to be processed and reviewed by Baltimore County agencies.

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

hereof.

Zoning Commissioner for

Baltimore County

IN THE MATTER OF
THE APPLICATION OF
ANTHONY GREAVER AND LAUREN
GREAVER -- PETITIONERS FOR A
VARIANCE ON PROPERTY LOCATED
ON THE NE/S LINK AVENUE, 545' NW
OF THE C/L OF BELAIR ROAD
(4108 LINK AVENUE)
AND
FOR A VARIANCE ON PROPERTY
LOCATED ON THE SW/S SILVER
ROAD, 682' NW OF C/L BELAIR ROAD
(4105 SILVER SPRING ROAD)
11TH ELECTION DISTRICT

6TH COUNCILMANIC DISTRICT

- * BEFORE THE
- * COUNTY BOARD OF APPEALS
- * OF
- * BALTIMORE COUNTY
- * CASE NO. 07-147-A AND
- * CASE NO. 07-148-A

*

OPINION

This matter is before the Board on appeal from a decision of the Deputy Zoning Commissioner (DZC) in which the DZC granted variance relief with certain restrictions. The Petitioners, Anthony Greaver and his daughter, Lauren Greaver, were represented by Howard Alderman, Jr., Esquire. The Protestants, Linda M. Zmijewski, who resides at 4110 Link Avenue, and Dreama D. Tesar, who lives at 4109 Link Avenue, were represented by J. Carroll Holzer, Esquire. A hearing was held on February 6, 2008, before the Board, and a public deliberation was held on March 12, 2008.

Background

Petitioners own a piece of property located in a development known as Fullerton Farms. The property is 50 feet wide and 340 feet deep, and contains approximately 0.4 acre. Part of the property fronts on Link Avenue and contains a 1 ½-story brick and frame residential dwelling known as 4108 Link Avenue. The Petitioner is proposing to subdivide the existing lot of record into two separate lots. The lot fronting on Link Avenue will be

known as Lot 67 and will be 50 feet by 139 feet, or 6,978 square feet. The second proposed lot will be Lot 67A, known as 4105 Silver Spring Road, and will front on Silver Spring Road. This will measure 50 feet by 213.38 feet or 10,276 square feet. Petitioners propose to erect a new single-family dwelling of approximately 30 feet by 45 feet on the second lot for either Petitioners' family use or to sell.

As is the case with older subdivisions, many of the lots are undersized and do not meet the current width requirements of the BCZR. Due to the narrow width of the lot in question, the requested variances are necessary to legitimize the existing conditions on 4108 Link Avenue and to proceed with the proposed improvements. The new dwelling will meet all the front and side yard setback requirements.

The Protestant, Mrs. Zmijewski, opposed the request for the variance, believing that the construction of a new dwelling will result in increased storm water runoff that will aggravate flooding conditions on her property. Ms. Zmijewski produced numerous photographs showing water standing on the rear of her property. She also produced a photograph of a storm drain that was located to the rear of her property on a County easement, which was to receive excess storm water from the rear of the property as a result of the construction of Silver Spring Road. Unfortunately, the storm drain appears to be too high and the ground around it has not been landscaped to allow water to drain into the drainpipe. Ms. Zmijewski felt that the situation would only be aggravated by the construction of the driveway and necessary fill that would be used to construct the second dwelling on Lot 67A.

Testimony and Evidence

In support of its position, Petitioners submitted a decision of Deputy Zoning

Commissioner Timothy M. Kotroco dated August 22, 1996, in Cases No. 97-21-A, 97-22
A, 97-23-A, and 97-24-A, in which the DZC granted variances for similar properties

located at 4112 and 4114 Link Avenue. The properties were subdivided into two lots, and the second lots were known as 4109 and 4111 Silver Spring Road.

In granting the variances, the Deputy Zoning Commissioner stated: "It has been established that special circumstances or conditions exist that are peculiar to the land and structures which are the subject of these requests and that the requirements from which Petitioners seek relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel." The Deputy Zoning Commissioner did not state what qualified the properties as being unique under the law established by the case of *Cromwell v. Ward*, 102 Md.App. 691, 651 A.2d 424 (1995). There were no Protestants in that case and no appeal was taken to the Board of Appeals.

Vincent Moskunas, President of Site Rite Surveying, who testified as an expert in land planning and zoning for the Petitioners, testified that, in his opinion, the opinion of the Deputy Zoning Commissioner in the above cases was one basis for granting the variances for the Petitioners herein. In addition, Mr. Moskunas stated that he felt that the Petitioner was entitled to the variance since it met all the requirements of § 304 of the *Baltimore County Zoning Regulations* (BCZR). Unfortunately, the variances were not requested under § 304 of the BCZR. The Board must consider the evidence as to the granting of the variances under § 307 of the BCZR.

At the close of the hearing, Counsel for the Protestants, Mr. Holzer, contended that petitioning for the use of the undersized single-family lots under § 304 and the Petition for a variance under § 307 of the BCZR were two distinct and separate paths on which the Petitioner could request relief. He cited Board Case No. 06-506A, *In the Matter of Henry B. Peck, Jr.*, in support of his position. In that case, the Board refused to take testimony or evidence pertaining to the processing of a petition under § 304 of the BCZR because appropriate documents had not been filed under § 304. The Board held that the petition should be processed under § 1802.3 of the BCZR. The reason for the two separate paths is that, under § 304, public notice and a public hearing before the Zoning Commissioner is necessary to establish that the relief requested is under the "undersized lot" criteria.

It should be noted that, in the hearing below before the Zoning Commissioner, he cited § 304.1 of the BCZR in making his findings, even though the Petition was not requested under § 304 but under § 307.

The Petitioners' Counsel submitted the case of *Mueller v. People's Counsel for Baltimore County*, 177 Md.App. 43, decided November 2, 2007, in support of his position.

This case arose as the result of a Petition being filed for relief under § 304 of the BCZR. In its decision at page 56, the Court stated:

On April 27, 2004, Appellants filed their variance petition, in which they sought permission to make Lot 67 a buildable lot. In particular, the petitioner requested that the zoning commissioner "approve an undersized lot per § 304 [of BCZR] with any other variances deemed necessary.

[Footnote #5 – In its opinion, the Circuit Court stated that Appellants sought relief under both BCZR § 304 and § 307. The petition refers only to § 304.]

Finally, in a footnote on page 93 of that decision, the Court stated:

We note that the Board determined that Lot 67 is "unique." Although BCZR

§ 307 contains a uniqueness requirement, BCZR § 304 does not contain such a requirement and the Board's order indicates that it granted the variance pursuant to § 304. Therefore, we need not address the element of uniqueness or hardship. As noted, we may only uphold the agency on the grounds on which it relied. See Department of Health and Mental Hygiene v. Campbell, 364 Md. 108, 111, 771 A.2d 105 (2001).

Therefore, this Board finds that the *Mueller* case does not support the position of the Petitioners herein.

Decision

Since this matter is not being considered under § 304 of the BCZR, the Board will review the elements necessary to grant a variance under § 307 of the BCZR. Under the standards created by Cromwell v. Ward, Id., the Petitioner must first prove that the property in question is unique in order to be granted a variance. Once the property is shown to be unique, the Petitioner must show that the property itself contains some special circumstances that relate to the hardship complained of and causes practical difficulty.

A review of the Plat of Fullerton Farms (Petitioners' Exhibit #2) shows that there are at least eight other properties in the development that are of a similar in nature to the property that Petitioners wish to subdivide (Lot 67). They are long, narrow lots fronting on both Link Avenue and Silver Spring Road. The Board finds that the lot is not unique; therefore, it does not have to reach the question of practical difficulty or hardship. The Board will deny the request for variance.

ORDER

16th day of Rorif, 2008 by the County THEREFORE, IT IS THIS Board of Appeals of Baltimore County

ORDERED that the Petition for Variance relief filed in Case No. 07-147-A seeking

approval of a variance from § 1B02.3C.1 of the Baltimore County Zoning Regulations to permit an existing dwelling to have a lot width of 50 feet in lieu of the required 55 feet be and is hereby **DENIED**; and it is further

ORDERED that the Petition for Variance filed in Case No. 07-148-A seeking relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations to permit a proposed dwelling to be constructed on a lot with a width of 50 feet in lieu of the required 55 feet, known as 4105 Silver Spring Road, be and is hereby DENIED.

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

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Edward W. Crizer, Jr., Chairman

Lawrence S. Wescott

Wendell H. Grier

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

DATE: November 16, 2006

RECEVED

FROM:

Amold F. 'Pat' Keller, III

Director, Office of Planning

NOV 1 7 2006

ZONING COMPANY TO

SUBJECT:

Zoning Advisory Petition(s): Case(s) 7-148 and 7-147 - Variance

AMENDED

The Office of Planning has reviewed the above referenced project and offers the following comments:

Upon further review of the site plan submitted, the petitioner is proposing to subdivide an existing lot of record into two separate lots. One lot (Lot 67) contains an existing dwelling fronting on Link Avenue, with a second proposed lot (Lot 67A) fronting on Silver Spring Road being created for the purposed of constructing a new, single family detached dwelling. The site plan submitted with the petition shows the newly created lot as having a width of 50 feet. The applicant is requesting relief from BCZR section 1B02.3.c.1, to permit a lot width of 50 feet in lieu of 55 feet in a DR 5.5 zone.

Section 304.1 of the Baltimore County Zoning Regulations (BCZR) states that a single family detached dwelling may be erected on a lot having an area or width at the building line less than that required by the current bulk and/or area regulations if such a lot has been duly recorded either by deed or in a validly approved subdivision prior to March 30th, 1955. The subject property had its original lot created as part of a subdivision prior to March 30th, 1955 (Lot 120 of "Fullerton Farms" / Liber 7, Folio 52 recorded May 1922).

The Office of Planning is concerned about the number of potential driveways being created along Silver Spring Road should the adjacent lots also be developed. Previously, when lots 64A and 65A were created in 1996, they were required to do a shared driveway (see aerial photo).

If the petitioner's request is granted, the following conditions shall apply to the proposed dwelling:

- 1. Relocate the proposed driveway directly adjacent to either lot 66 or lot 68 and provide an access agreement for the adjacent property owner so that a single curb cut can be shared by two lots.
- 2. Provide turn out room on the lot so the cars do not back out onto Silver Spring Road.
- 3. Submit building elevations to this office for review and approval prior to the issuance any building permit. The proposed dwelling shall be compatible in size, exterior building materials, color, and architectural detail as that of the existing dwellings in the area. Note that the other dwellings do not have front entry garages.

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4. Provide landscaping along the public road, if 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 Attachment

W:\DEVREV\ZAC\7-147-amended.doc



JAMES T. SMITH, JR. County Executive

WILLIAM J. WISEMAN III

Zoning Commissioner

January 10, 2007

Ms. Bernadette Moskunas Site Rite Surveying, Inc. Shell Building, Room 101 200 East Joppa Road Towson, Maryland 21286

RE: PETITIONS FOR VARIANCE

NE/S Link Avenue, 545' NW of c/l Belair Rd. (4108 Link Avenue); and SW/S Silver Spring Road, 682' NW of c/l Belair Road (4105 Silver Spring Road) 11th Election District - 6th Council District Anthony M. Greaver, et al - Petitioners Case Nos. 07-147-A & 07-148-A

Dear Ms. Moskunas:

Enclosed please find a copy of the decision rendered in the above-captioned matters. The Petitions for Variance have been granted with restrictions, in accordance with the attached Order.

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

Very trally yours,

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

WJW:dlw

c: Mr. Anthony Greaver, 16 Ridgecliff Court, Kingsville, Md. 21087 Ms. Linda Zmijewski, 4106 Link Avenue, Nottingham, Md. 21236 Ms. Dreama Tesar, 4109 Link Avenue, Nottingham, Md. 21236 Office of Planning; People's Counsel; Case File



Petition for Variance

to the Zoning Commissioner of Baltimore County
for the property located at
which is presently zonedDR5.5

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) 1302.3.C.1 - to permit an existing dwelling to have a lot width of 50 feet in lieu of the required 55

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

(SEE ATTACHED)

Property is to be posted and advertised as prescribed by the zoning regulations. , 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/L	essee:

Signature

Address

Signature

Company

City

REV 9/15/98

City

Anthony Greaver Name - Type or Print Name - Type or Print Signature Lauren Greaver Name - Type or Print Telephone No. Signature Zip Code State (410) 592-6189 4108 Link Avenue Telephone No. Attorney For Petitioner: **Address** 21236 MD Baltimore Zip Code State City Name - Type or Print Representative to be Contacted: Site Rite Surveying, Inc. Name 200 E. Joppa Road, #101 (410) 828-9060 Telephone No. Address Telephone No. Address ... 21286 MD Towson Zip Code State Zip Code City State OFFICE USE ONLY

Legal Owner(s):

ESTIMATED LENGTH OF HEARING

DNAYATLABLE FOR HEARING

UNDER RECEIVED FOR FILING

Case No. _07-/47-A

ZONING DESCRIPTION #4108 LINK AVENUE

BEGINNING at a point on the northeast side of Link Avenue which is 50 feet wide at the distance of 545 feet northwest of the center line of Belair Road which is 80 feet wide. Being part of Lot #67, in the subdivision of "Fullerton Farms" as recorded in Baltimore County Plat Book #7, Folio #52, containing 0.160 of an acre, more or less. Also known as #4108 Link Avenue and located in the 11th 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

Item #147

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: # 07-147-A
4108 Link Avenue

Northeast side Link Avenue, 545 feet +/- northwest of centerline Belair Road.

11th Election District — 6th Councilmanic District

Legal Owner(s): Anthony and Lauren Greaver
Verlance: To permit an existing dwelling to have a lot
width of 50 feet in lieu of the required 55 feet.
Hearing: Wednesday, November 29, 2006 at 10:00
a.m. in Room 106, Baltimore County Office Building,
111 W. Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

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

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

JT 11/643 Nov. 14

116024

CERTIFICATE OF PUBLICATION

11/16,2006
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing on
The Jeffersonian
The Jeffersonian Arbutus Times
☐ Catonsville Times
Towson Times
Owings Mills Times
□ NE Booster/Reporter
☐ North County News

LEGAL ADVERTISING

DISTRIBUTION WHITE CASHIER	Lase	FOR:	RECEIVED FROM:		DATE	OFFICE OF BUDG
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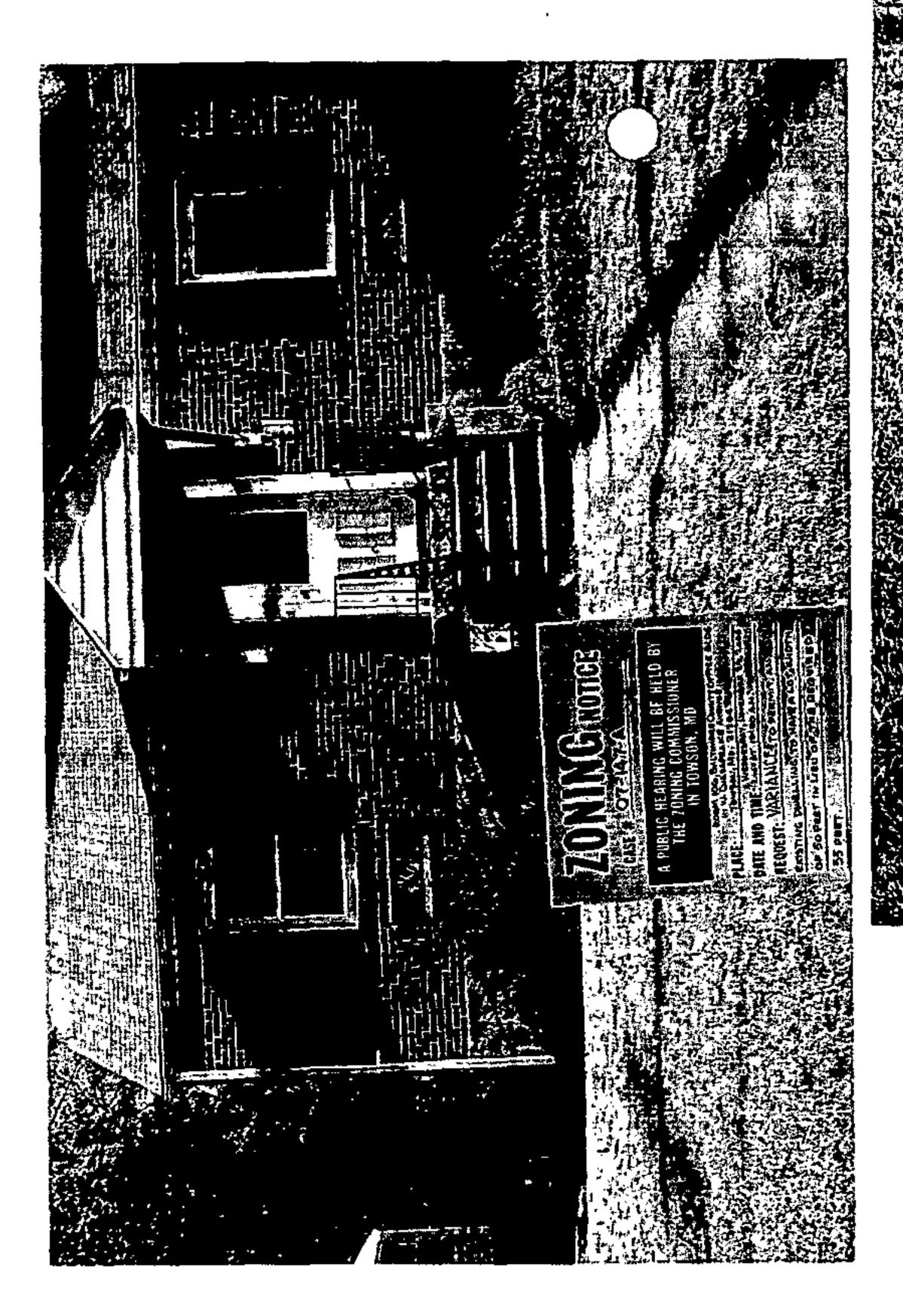
CERTIFICATE OF POSTING

Saltimore County Department of Permits and Development Management County Office Building, Room 111 11 West Chesapeake Avenue Towson, MD 21204	
Attention: Christen Matthews	
adies and Gentlemen: This letter is to certify und	der the penalties of perjury that the necessary sign(s)
equired by law were posted conspicuously on the	propery located at
# 410	OB LINEK AVE
The sign(s) were posted on	10, 7006 (Month, Day, Year)
-	Sincerely,
	Barland Date) (Signature of Sign Poster and Date)
	CJAPLAGED E, MOORE (Printed Name)
	3225 RYELSON CIRCLE (Address)
	BAUTIMORE, MD, 21227 (City, State, Zip Code)
	(Telephone Number)

RE: Case No.: 07-147-A

Petitioner/Developer: ANTHONY GOANNE VOICE

Date of Hearing/Closing: NOV-29, 2006



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

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REQUEST: VARIANCE TO REEM AW

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ANTHONY & LAUREN GREAVER
4108 LINK AVENUE
11TH E; 6TH C

07-147-A

Re: Petition for Variance 1B02.3.C.1 to permit an existing dwelling to have a lot width of 50' in lieu of the required 55'.

ANTHON7 GREAVER

07-148-A

Re: Petition for Variance – 1B02.3.C.1 to permit a proposed dwelling to be constructed on a lot with a width of 50' in lieu of the required 55'.

Oct. 2, 2006 Petition for Variance – Link Avenue & Silver Spring Road

Jan. 10, 2007 Zoning Commissioner GRANTED variance w/restrictions.

Feb. 5, 2007 Notice of Appeal filed by Linda Zmijewski.

Mar. 14, 2007 Received file in the Board of Appeals.



fosfed. 10/145AM 11:15AM 1photo

OCT 1 6 2007

BALTIMORE COUNTY BOARD OF APPEALS



JAMES T. SMITH, JR. County Executive

Octobre D1By 2006 TROCO, Director

Department of Permits and

Development Management

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: 07-147-A

4108 Link Avenue

Northeast side Link Avenue, 545 feet +/- northwest of centerline Belair Road.

11th Election District – 6th Councilmanic District

Legal Owner(s): Anthony and Lauren Greaver

VARIANCE To permit an existing dwelling to have a lot width of 50 feet in lieu of the required 55 feet.

Hearing: Wednesday, November 29, 2006 at 10:00 a.m. in Room 106, Baltimore County Office Building, 111 W. Chesapeake Avenue, Towson 21204.

Timothy Kotroco

Director

TK:amf

C: Anthony and Lauren Greaver 4108 Link Avenue Baltimore 21236 Site Rite Surveying, Inc. 200 E. Joppa Road, Ste.101 Towson 21286

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, NOVEMBER 14, 2006.

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

TO: PATUXENT PUBLISHING COMPANY
Tuesday, November 14, 2006 Issue - Jeffersonian

Please forward billing to:
Anthony and Lauren Greaver
4108 Link Avenue
Baltimore, MD 21236

410-592-6189

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: 07-147-A

4108 Link Avenue

Northeast side Link Avenue, 545 feet +/- northwest of centerline Belair Road.

11th Election District – 6th Councilmanic District

Legal Owner(s): Anthony and Lauren Greaver

<u>VARIANCE</u> To permit an existing dwelling to have a lot width of 50 feet in lieu of the required 55 feet.

Hearing: Wednesday, November 29, 2006 at 10:00 a.m. in Room 106, Baltimore County Office Building, 111 W. Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN III

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL 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 <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.

Itam Mumbar	or Case Number: <u>07-147-A</u>
item number	or Case Number
Petitioner:	Anthony Greaver and Lauren Greaver
Address or Lo	ocation: 4108 LINK Avenue
PLEASE FOR	WARD ADVERTISING BILL TO:
	WARD ADVERTISING BILL TO: Anthony Erraver and Lauren Greaver
Name:	Anthony Greaver and Lauren Greaver
PLEASE FOR Name:	Anthony Greaver and Lauren Greaver
Name:	Anthony Ereaver and Lauren Greaver :

APPEAL

Petition for Variance
4108 Link Avenue
NE/S Link Avenue, 545' NW c/l Belair Road
11th Election District – 6th Councilmanic District
Legal Owners: Anthony & Lauren Greaver

Case No.: 07-147-A

Petition for Variance (October 2, 2006)

Zoning Description of Property

Notice of Zoning Hearing (October 13, 2007)

Certification of Publication (The Jeffersonian - November 14, 2006)

Certificate of Posting (November 10, 2006) by Garland E. Moore

Entry of Appearance by People's Counsel (October 12, 2006)

Petitioner(s) Sign-In Sheet - One Sheet

Protestant(s) Sign-In Sheet - None

Citizen(s) Sign-In Sheet - One Sheet

Zoning Advisory Committee Comments

Exhibits placed in File 07-148-A since that case involves the approval of a Proposed Single-Family Dwelling.

Miscellaneous (Not Marked as Exhibit)

- 1. Letter from homeowner per testimony given by Tony Greaver
- 2. Findings of Fact and Conclusions of Law (97-21-A, 97-22-A, 97-23-A, 97-24-A)

Zoning Commissioner's Order (GRANTED - January 10, 2007)

Notice of Appeal received on February 5, 2007 by Linda Zmijewski

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner
Timothy Kotroco, Director of PDM
Bernadette Moskunas, 200 E. Joppa Road, Rm. 101, Towson 21286
Anthony Greaver, 16 Ridgecliff Court, Kingsville 21087
Linda Zmijewski, 4106 Link Avenue, Nottingham 21236
Dreama Tesar, 4109 Link Avenue, Nottingham 21236

date sent March 8, 2007, klm



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director

Department of Permits and

Development Management

November 20, 2006

Anthony Greaver Lauren Greaver 4108 Link Avenue Baltimore, MD 21236

Dear Mr. and Mrs. Greaver:

RE: Case Number: 07-147-A, 4108 Link Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 20, 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,

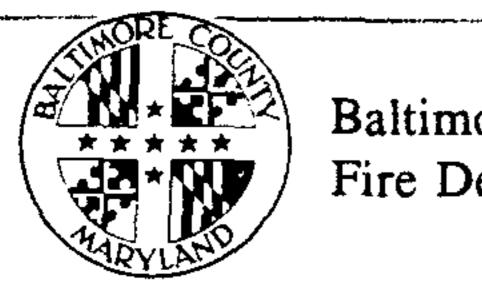
U. Callaball D.

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR:amf

Enclosures

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



Baltimore County Fire Department

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

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

October 9, 2006

ATTENTION: Zoning Review Planners

Distribution Meeting Of: October 9, 2006

Item Number(s): 145 through 156

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.

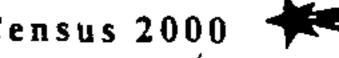
Lieutenant Roland P Bosley Jr. Fire Marshal's Office 410-887-4881 (C) 443-829-2946 MS-1102F

cc: File









BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: October 18, 2006

Department of Permits & Development Management

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For October 16, 2006

Item Nos. 07-145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155 and 156

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-10132006.doc

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

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: OCTOBETZ 15, 2006

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

Dear Ms. Matthews:

RE: **Baltimore County**

Item No. 07-147-A

4108 LINK AVENUE

GREAVER PROPERTY VARIANCE - TO PERNIT EXISTING DWELLING TO HAVE A LOT WINTH OF 50'

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 7-147-4.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

Steven D. Foster, Chief U Engineering Access Permits

Division

SDF/MB

-15h 11/29

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: October 31, 2006

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

Zoning Advisory Petition(s): Case(s) 7-148 and 7-147 - Variance

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.

If the petitioner's request is granted, the following conditions shall apply to the proposed dwelling:

- 1. Submit building elevations to this office for review and approval prior to the issuance any building permit. The proposed dwelling shall be compatible in size, exterior building materials, color, and architectural detail as that of the existing dwellings in the area.
- 2. Provide landscaping along the public road, if 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:

DOT 6 000

Division Chief:

CM/LL

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

DATE: November 16, 2006

RECEIVED

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

NOV 1 7 2006

ZONING COM TOPICS

SUBJECT:

Zoning Advisory Petition(s): Case(s) 7-148 and 7-147 - Variance

AMENDED

The Office of Planning has reviewed the above referenced project and offers the following comments: Upon further review of the site plan submitted, the petitioner is proposing to subdivide an existing lot of record into two separate lots. One lot (Lot 67) contains an existing dwelling fronting on Link Avenue, with a second proposed lot (Lot 67A) fronting on Silver Spring Road being created for the purposed of constructing a new, single family detached dwelling. The site plan submitted with the petition shows the newly created lot as having a width of 50 feet. The applicant is requesting relief from BCZR section 1B02.3.c.1, to permit a lot width of 50 feet in lieu of 55 feet in a DR 5.5 zone.

Section 304.1 of the Baltimore County Zoning Regulations (BCZR) states that a single family detached dwelling may be erected on a lot having an area or width at the building line less than that required by the current bulk and/or area regulations if such a lot has been duly recorded either by deed or in a validly approved subdivision prior to March 30th, 1955. The subject property had its original lot created as part of a subdivision prior to March 30th, 1955 (Lot 120 of "Fullerton Farms" / Liber 7, Folio 52 recorded May 1922).

The Office of Planning is concerned about the number of potential driveways being created along Silver Spring Road should the adjacent lots also be developed. Previously, when lots 64A and 65A were created in 1996, they were required to do a shared driveway (see aerial photo).

If the petitioner's request is granted, the following conditions shall apply to the proposed dwelling:

- 1. Relocate the proposed driveway directly adjacent to either lot 66 or lot 68 and provide an access agreement for the adjacent property owner so that a single curb cut can be shared by two lots.
- 2. Provide turn out room on the lot so the cars do not back out onto Silver Spring Road.
- 3. Submit building elevations to this office for review and approval prior to the issuance any building permit. The proposed dwelling shall be compatible in size, exterior building materials, color, and architectural detail as that of the existing dwellings in the area. Note that the other dwellings do not have front entry garages.

4. Provide landscaping along the public road, if 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 Attachment RE: PETITION FOR VARIANCE

4108 Link Avenue; NE/S Link Avenue,

545' NW c/line Belair Road

11th Election & 6th Councilmanic Districts

Legal Owner(s): Anthony & Lauren Greaver*

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

07-147-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 12th day of October, 2006, a copy of the foregoing Entry of Appearance was mailed to, Site Rite Surveying, Inc, 200 E Joppa Road, Suite 101, Towson, MD 21286, Representative for Petitioner(s).

RECEIVED

001 1 2 2006

Per Y

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

PLEASE PRINT CLEARLY

ITIONER'S SIGN-IN PETI

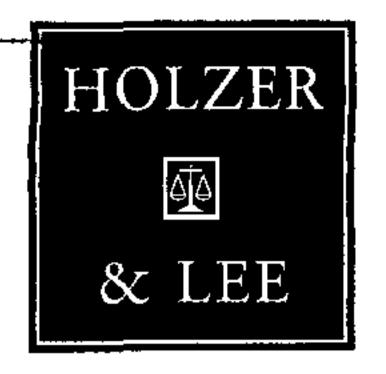
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CITY, STATE, ZIP TOWSOIN, MD 21286 Kursulle, Md 24087							
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CASEN	CASE /	DATE

CITIZEN'S SIGN-IN S

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CASE NAME CASE NUMBER DATE	IGN-IN SHEET	CITY, STATE, ZIP	-Ham 212	MOTTINGHAM &1236															
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Law Offices

J. CARROLL HOLZER, PA

J. HOWARD HOLZER
1907-1989

THOMAS J. LEE OF COUNSEL

THE 508 BUILDING

508 Fairmount Ave. Towson, MD 21286 (410) 825-6961

FAX: (410) 825-4923

jcholzer@cavtel.net

February 11, 2008 #7685

Mr. Edward W. Crizer, Jr.
Chairman
Baltimore County Board of Appeals
400 Washington Avenue
Room 49
Towson, Maryland 21204

RE: Case No.: 7-147 and 7-148
Petition for Variance

Dear Mr. Crizer & Members of the Board:

In my closing argument on Thursday, February 7, 2008, I referred to a case decided by this Board which concluded that the processes for petitioning for a Variance under Baltimore County Zoning Regulations §307.1 and petitioning for use of undersized single-family lots under §304 were two distinct and separate paths for the Petitioner to request relief. The attached Case No.: 06-506A, *In the Matter of: Henry B. Peck, Jr.*, is a decision by this Board chaired by Panel Chairman Lawrence S. Westcott along with Wendall H. Grier and Robert W. Witt, which determined that in that case, since a Petition for Variance was filed, reviewing and processing that request could not be done under the relief provided in §304. One of the basic reasons for that is that under §304, public notice is required, a public hearing is required and a hearing before the Zoning Commissioner is necessary establishing that the relief requested is under the undersized lot criteria.

The two (2) Petitions filed in this case for Variance which are attached, do not purport to request relief under §304.

FEB 1 3 2008

BALTIMORE COUNTY BOARD OF APPEALS Mr. Edward W. Crizer, Jr. February 11, 2008
Page two

Therefore, this matter should be decided only on the basis of Variance considerations under §307.1.

A copy of this letter is being furnished to Howard Alderman as per my agreement.

In a further note, the Court of Special Appeals Decision in <u>Herman Mueller, Jr., et al.</u> <u>v. People's Counsel for Baltimore County</u>, dated November 2, 2007, has been petitioned for a Writ of Certiorari by People's Counsel to the Court of Appeals.

Very truly yours,

J. Carroll Holzer

JCH:mlg

Enclosure

cc: Mr. Larry Westcott

Mr. Grier

Howard L. Alderman, Jr., Esquire

Ms. Linda Zmijewski

LAW OFFICES

LEVIN & GANN

A PROFESSIONAL ASSOCIATION

NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Fl∞r
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960) CALMAN A. LEVIN (1930-2003)

DIRECT DIAL 410-321-4640

HOWARD L. ALDERMAN, JR.

halderman@LevinGann.com

February 7, 2008

HAND DELIVERED

Edward W. Crizer, Jr., Chairman County Board of Appeals for Baltimore County 400 Washington Avenue, Suite 48 Towson, Maryland 21204

RE:

4108 Link Avenue and 4105 Silver Spring Avenue

Case Nos. 07-147-A & 07-148-A

Dear Mr. Crizer:

At the conclusion of yesterday's hearing in the above-referenced matter, I quoted during my closing argument from the recent Court of Special Appeals' case of *Mueller v. People's Counsel for Baltimore County*, a decision reported at 177 Md. App. 43, decided on November 2, 2007. As requested by the Board, I am pleased to provide four (4) copies of that case for the Board members' use.

Should you or any member of the Board desire additional information in this regard, please do not hesitate to contact me.

Very truly yours,

Howard L. Alderman, Jr.

HLA/gk

Enclosures (4)

c (w/1 encl.):

J. Carroll Holzer, Esquire Mr. Anthony Greaver

FEB U 7 2008

BALTIMORE COUNTY BOARD OF APPEALS

To Whom This May Concern:

Be advised that I Linda M.Zmijewski am filing an appeal to the decision that was rendered on January 10th,2007 for case # 07147-A & 07148-A for the properties at 4108 Link Avenue& 4105 Silver Spring Road.

RECEIVED

FEB 0 5 2007

Perand

420

IN RE: PETITIONS FOR VARIANCE

BEFORE THE

N/S Link Avenue, 474' & 524' NW of

the c/l Belair Road (4112 and *

DEPUTY ZONING COMMISSIONER

4114 Link Avenue); and, S/S Silver

Spring Road, 630' & 580' W of

the c/l Belair Road (4109 and

(4111 Silver Spring Road) * Cases

11th Election District
6th Councilmanic District

* OF BALTIMORE COUNTY

* Cases Nos. 97-21-A, 97-22-A

97-23-A, and 97-24-A

Kenneth J. Goeller, Jr., et ux * and Francis D. Kemp, Jr. - Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as combined Petitions for Variance for those properties known as 4112 and 4114 Link Avenue and 4109 and 4111 Silver Spring Road, located in the vicinity of Joppa Road and Belair Road in Perry Hall. The Petitions were filed by Kenneth J. Goeller, Jr., and his wife, Charlene J. Goeller, owners of 4114 Link Avenue and 4111 Silver Spring Road, and Francis D. Kemp, Jr., owner of 4112 Link Avenue and 4109 Silver Spring Road. In all four cases, relief is sought from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50 feet in lieu of the required 55 feet, and a side yard setback of 8 feet in lieu of the required 10 feet for existing and proposed improvements. The subject properties and relief requested are more particularly described on the respective site plans submitted with each Petition filed, which were accepted and marked into evidence as Petitioner's Exhibits 1.

Appearing at the hearing on behalf of the Petitions were Kenneth and Charlene Goeller, Francis Kemp, Jr., and Alexander P. Ratych, Registered Land Surveyor who prepared the site plans for each case. There were no Protestants present.

Testimony and evidence offered revealed that the properties known

as 4112 and 4114 Link Avenue are located adjacent to one another in the subdivision known as Fullerton Farms. The two properties are 50 feet wide and nearly 400 feet deep and abut Link Avenue in the front and Silver Spring Road in the rear. The Goellers and the Kemps have been neighbors for many years. The Petitioners now wish to subdivide their respective properties to create a second building lot which will front on Silver Spring Road. They then propose to develop that lot with a new single family dwelling for their respective families and either rent or sell their current homes. Due to the narrow width of the properties and the location of existing improvements thereon, the requested variances to lot width and setback requirements are necessary to legitimize existing conditions and to proceed with the proposed improvements.

~ .

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented,

it is clear that practical difficulty or unreasonable hardship will result if the variances are not granted. It has been established that special circumstances or conditions exist that are peculiar to the land and structures which are the subject of these requests and that the requirements from which the Petitioners seek relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not cause any injury to the public health, safety or general welfare and is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this Aday of August, 1996 that the Petitions for Variance seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50 feet in lieu of the required 55 feet, and a side yard setback of 8 feet in lieu of the required 10 feet for existing and proposed improvements at 4112 and 4114 Link Avenue, and 4109 and 4111 Silver Spring Road, in accordance with Petitioner's Exhibits 1, be and is hereby GRANTED, subject to the following restrictions:

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 relief granted herein shall/be rescinded.

TIMOTHY M. KOTROCO

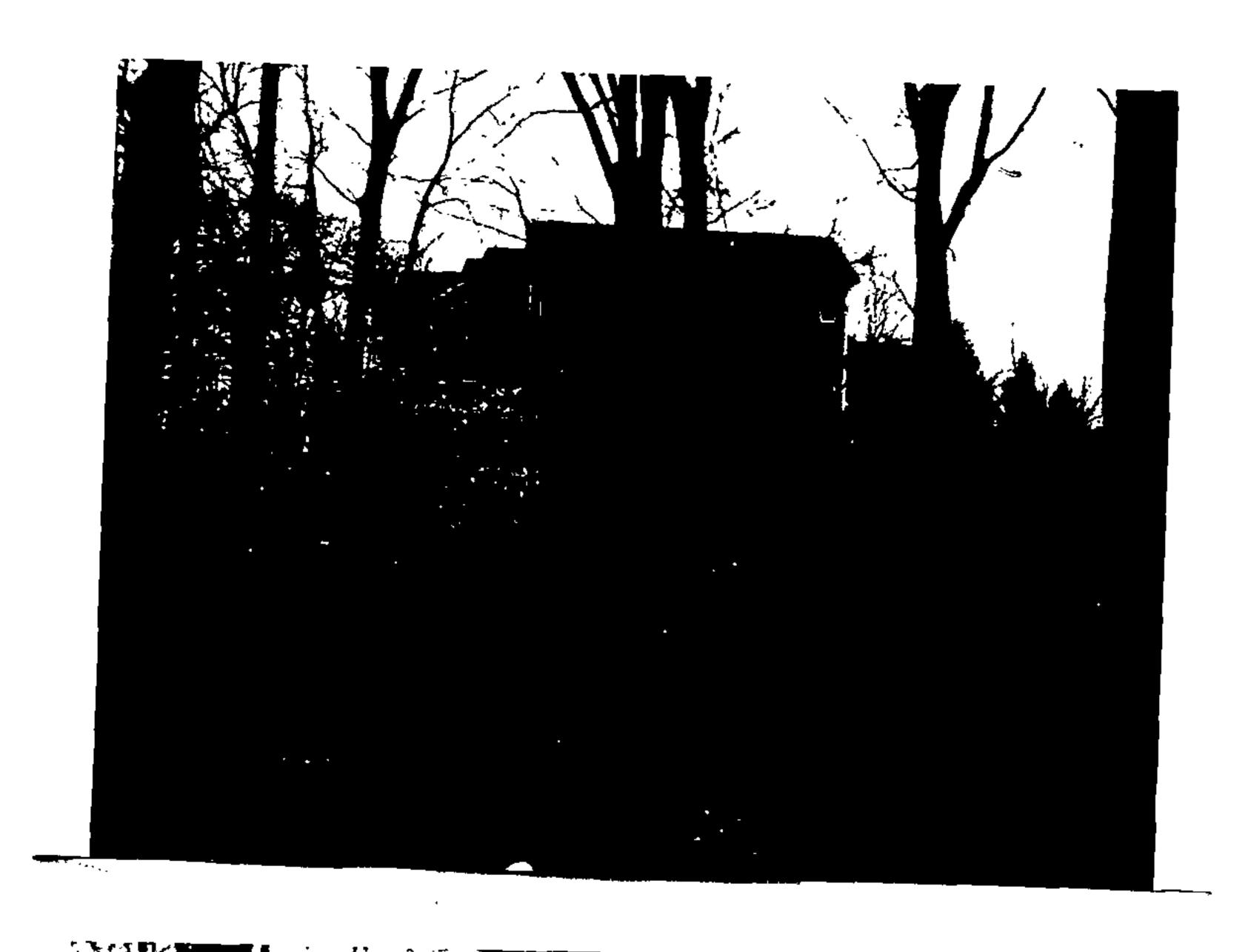
Deputy Zoning Commissioner

for Baltimore County

TMK:bjs

07-147-A & 04-148-A
Anthony Greaver et ma
Protestants' # 1A - 121
Photographs

(additional photos clipped 40 1-21











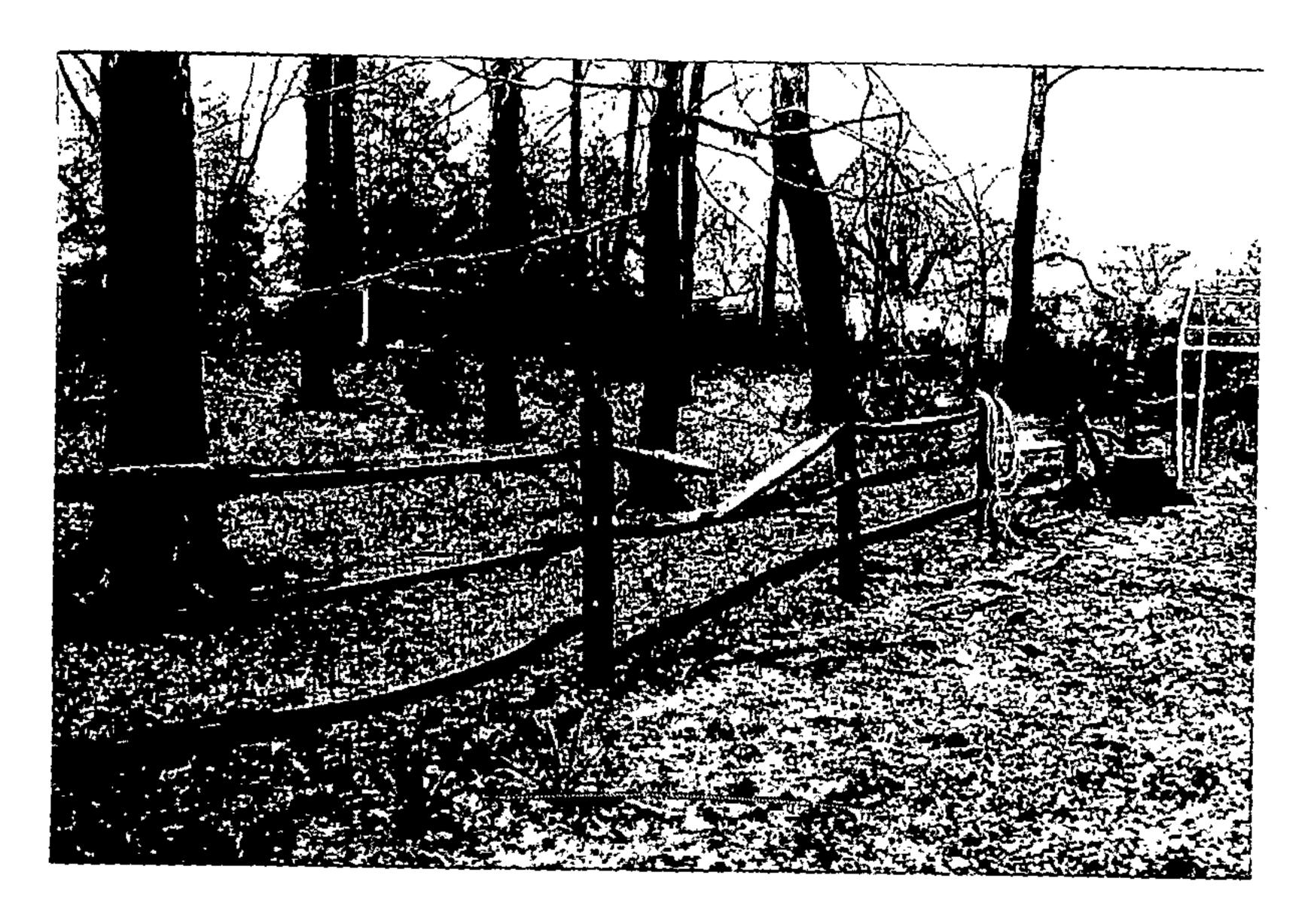


















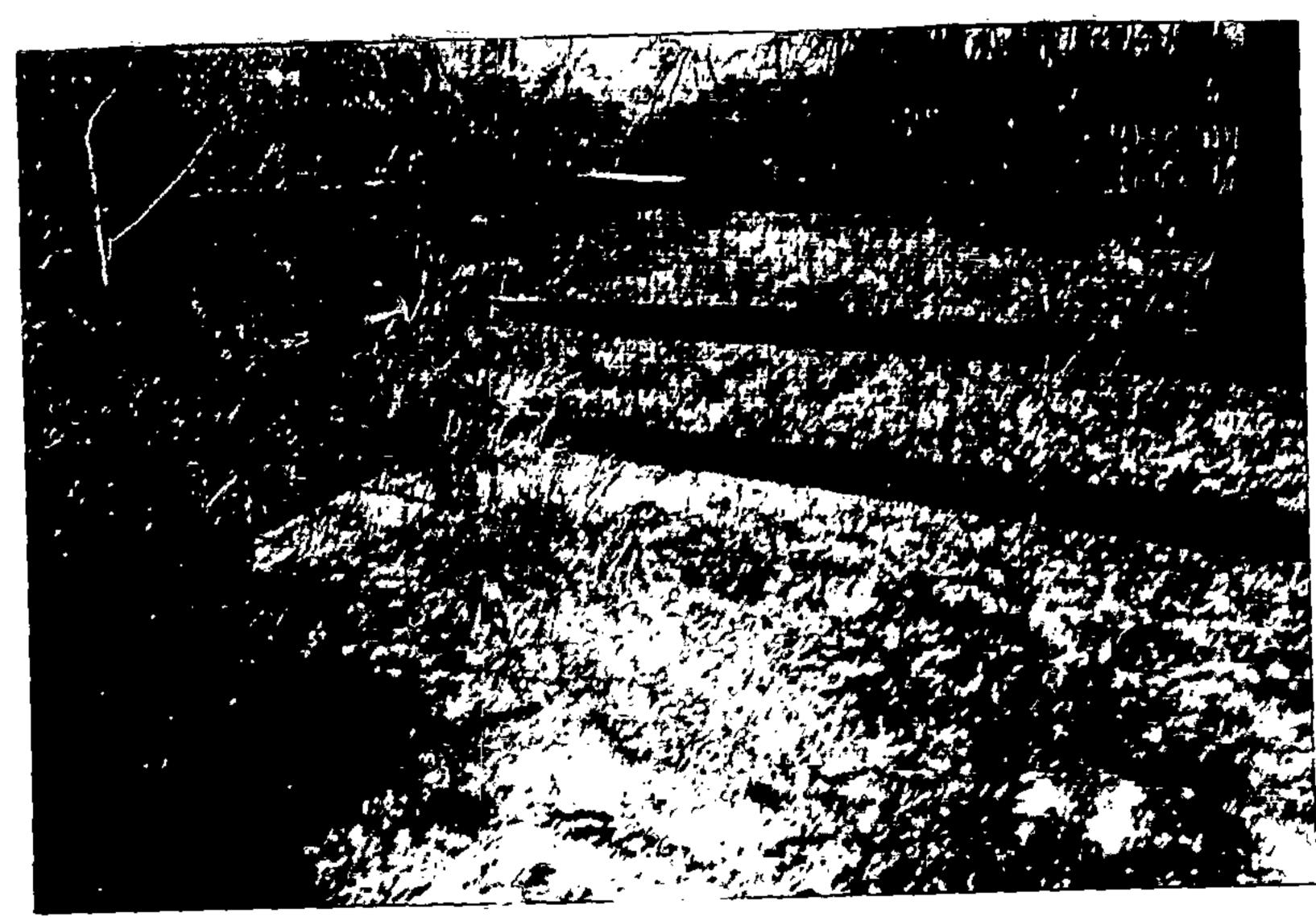














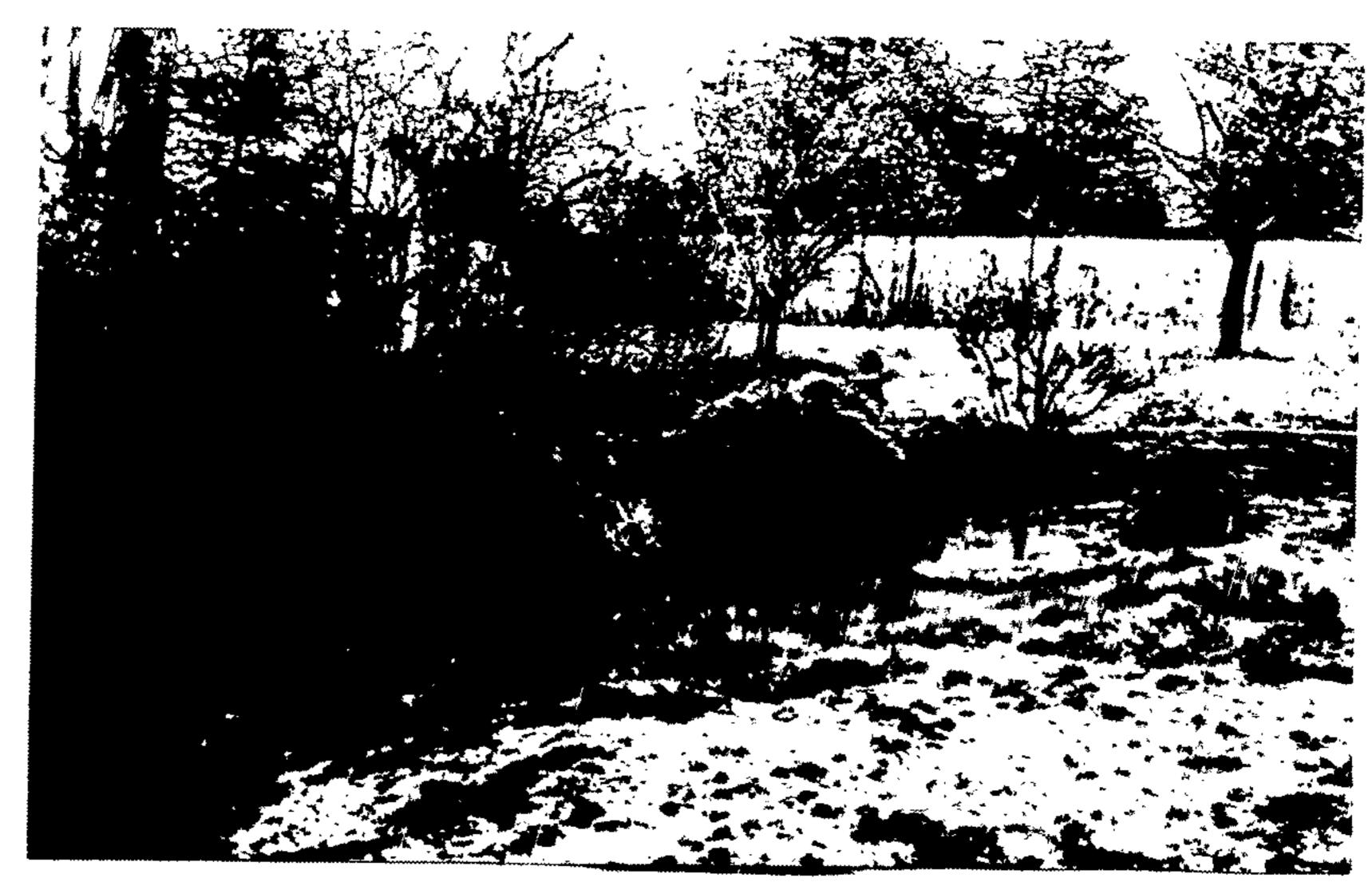






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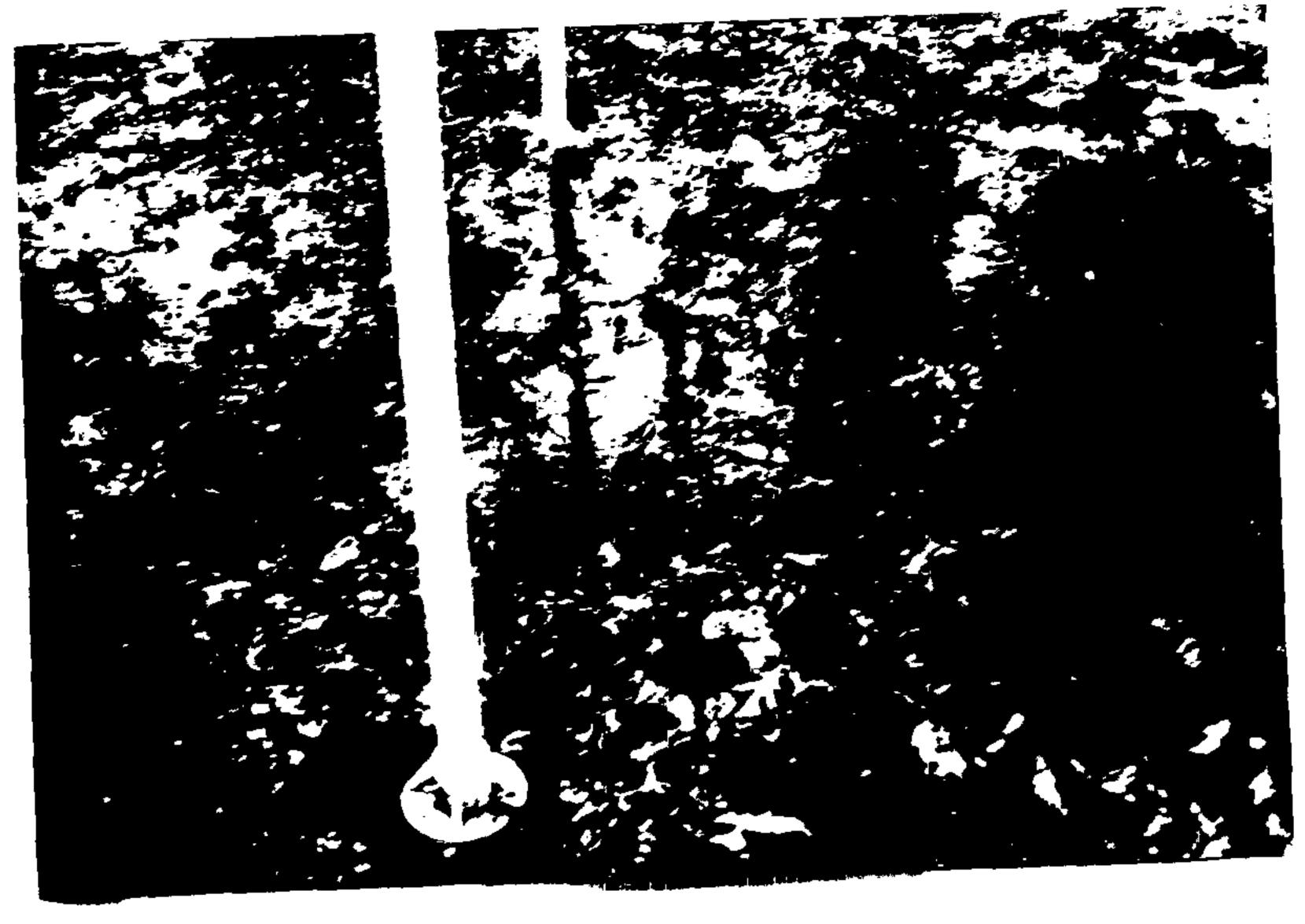




















Petitimer's (photos)

07-147-A &
07-148-A





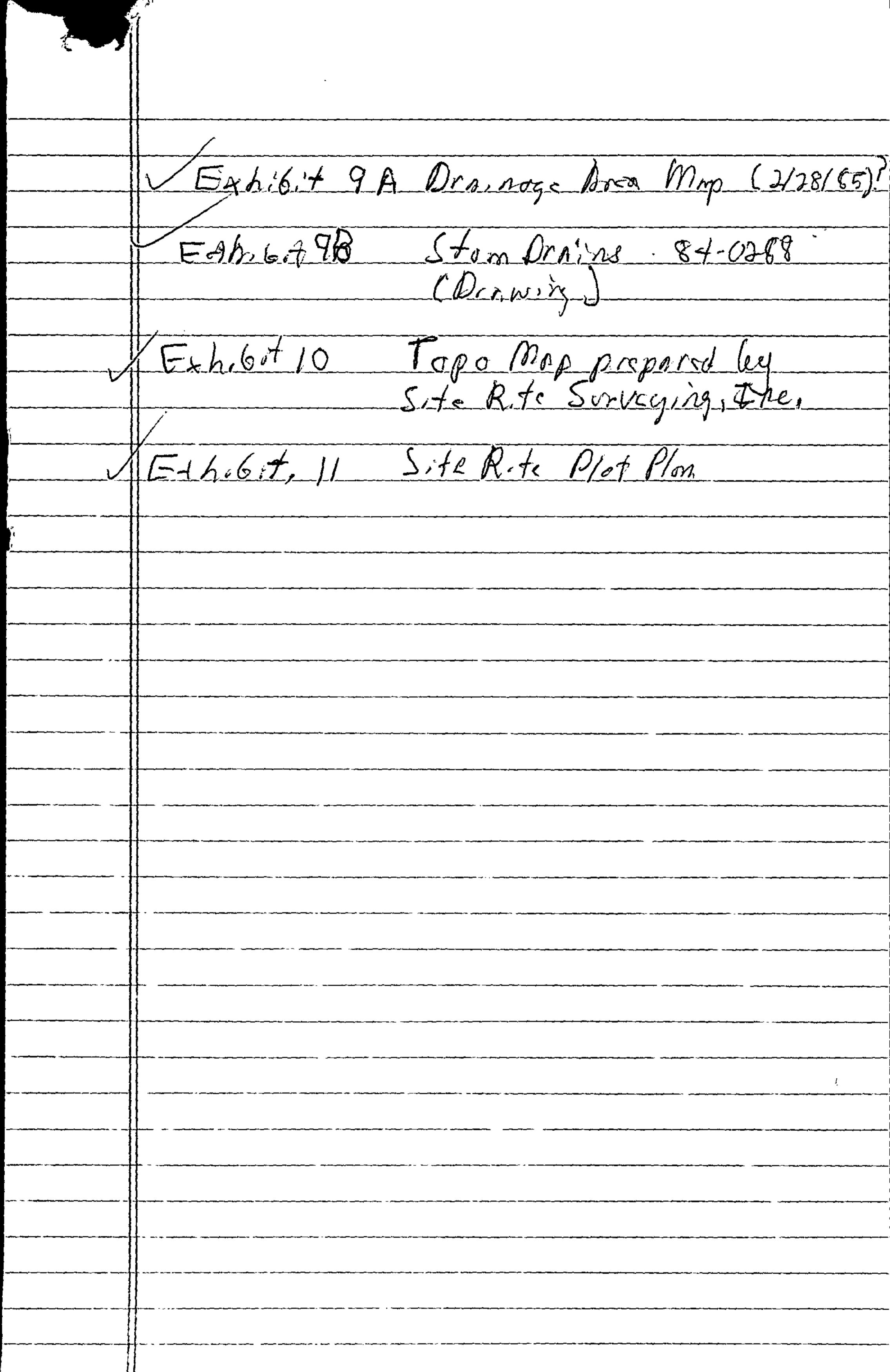
216/08 EXHIBITS CASES 07-147-A & 07-148A ANTHONY + LAUREN GREAVER PET/INER Exh. 6:+ 2 - Amondad Drawing Dates 2.06-08-(Relocated Driveway) EXA.GIT 2 PLAT OF FULLERTON FARMS Etholit 3 Zoning Commissioner ducision.

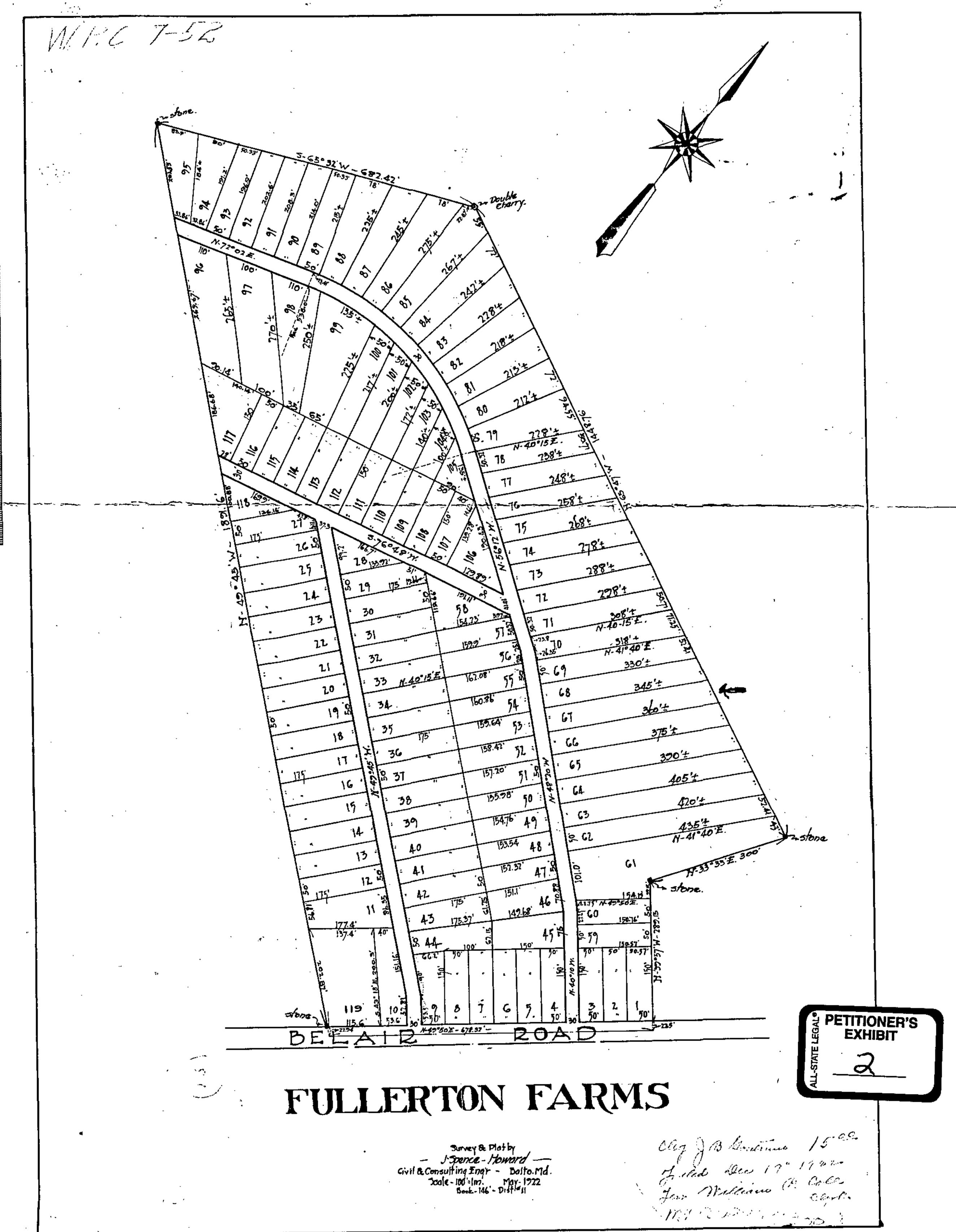
CASUS 97-21-A 197-22-A et sequ E-Kby 4A Minor subdivision plan

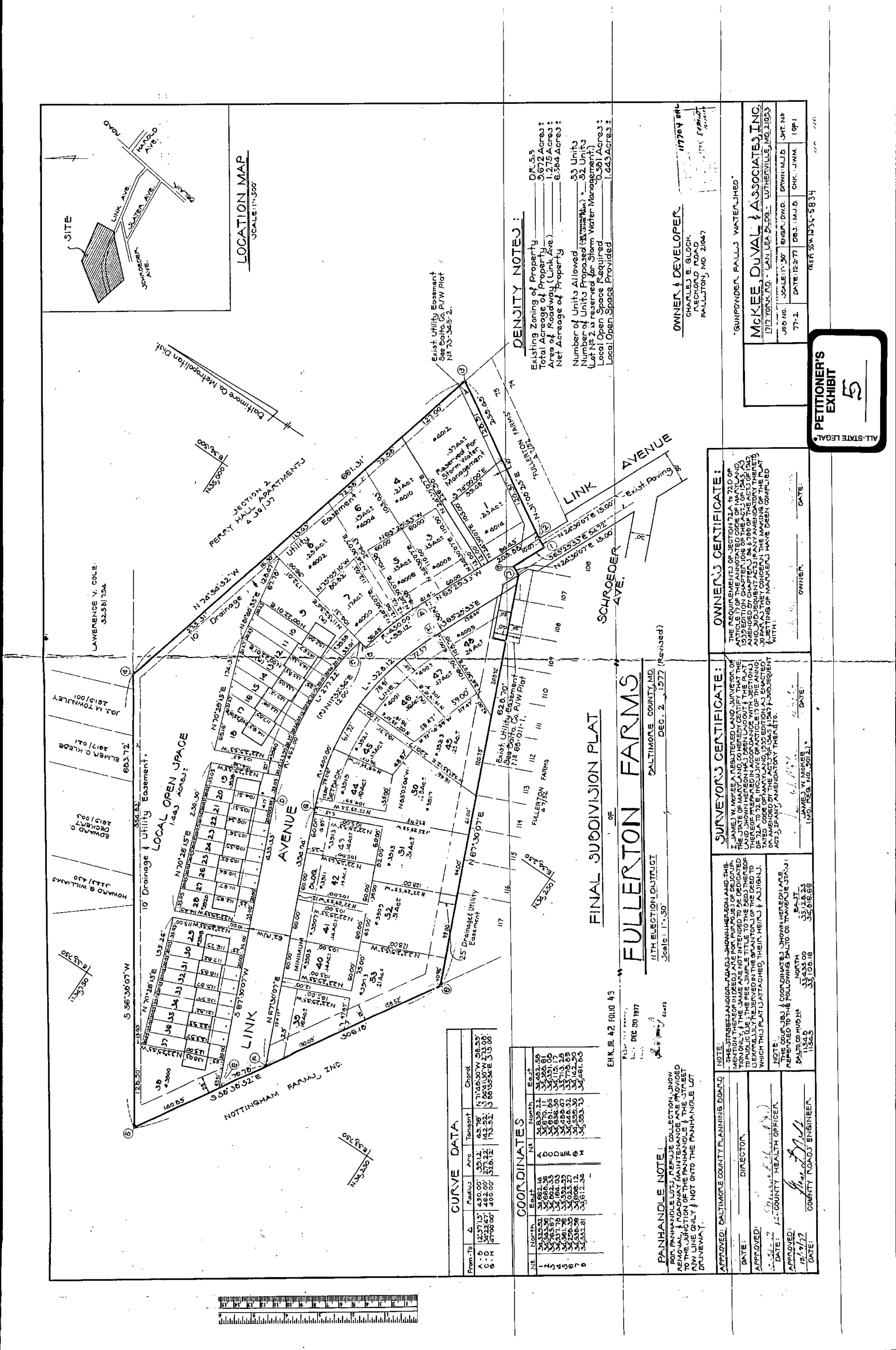
Zoviller ((BA)

Exhat 4B Mar rubdivision plan

Zovilled (CBA) Exhibit 5 Froid subdivision Plat Exhibit GA Photos VErhibit 6 B Photo > Exh. 6st 7 Comty Highway Oced (3-28-84 JExhibit 8 Inquisition - L.6889 F. 376 (OVER)







LIBERG 6 9 4 PASES O O

CODE: 05--BW-83-290-9 J.O. 5-323-1

County Highway Deed.

Item 9

District 11

this DEED, Made this 20 day of March in the year 1984, by JOHN L. PRIET and CATHERINE M. PRIET, his wife, of Baltimore County, State of Maryland, Grantors.

STONATURE TO A TRANSPORT THE STONATURE AND DETERMINED TO A STONATURE AND DETERMINED AND DETERMINED TO A STONATURE AND DETERMINED AND DETERMIN

ASSESSIONES & TAXATION

OTHER

WITNESSETH, that in consideration of the sum of Five Dollars (\$5.00), and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said Grantons do grant and convey unto BALTIMORE COUNTY, MARYLAND, a body corporate and politic, its successors and assigns, in fee simple, for public highway purposes, all that lot of ground situate, lying and being in the Eleventh Election District of Baltimore County, State of Maryland, and described as follows, that is to say.

BEING a parcel of land of irregular dimensions across Lot No. 67, "PLAT OF 'FULLERTON FARMS'", which Plat is recorded among the Plat Records of Baltimore County in Liber W.P.C. No. 7, folio 52, said parcel of land containing 0.0022 acre (97 sq. ft.), more or less, to be used for the bed of SILVER SPRING ROAD as shown shaded and indicated "HIGHWAY R/W" on Baltimore County Bureau of Land Acquisition Drawing No. RW 83-290-9, which is attached hereto and made a part hereof.

TOGETHER with the right to create, use and maintain on the area of the land containing 0.0186 acre (810 sq. ft.), more or less, as shown hatched and indicated "REVERTIBLE SLOPE EASEMENT" on the aforesaid Drawing No. RW-83-290-9, which is attached hereto and made a part hereof, such slopes as are necessary to retain and support the highway and/or adjacent property; it being agreed between the parties hereto, however, that at such time as the contour of the land over which the said slope easement is granted is changed so that the easement required for slopes is no longer necessary to retain, support or protect the highway construction, then said easement for slopes shall cease to exist.

BEING a portion of the property which by a Deed dated August 13, 1958 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 3399, folio 109 was granted and conveyed by Mathew P. Benach and wife to John L. W. 1967 102 108:31 Catherine M. Priet, his wife.

TOGETHER with the appurtenences and advantages to the same belonging or in anywise appearaining especially said slope essement as hereinabove set forth.

TO HAVE AND TO HOLD the above granted property unto Baltimore County, Maryland, a body corporate and politic, its successors and assigns, in fee simple, for public highway purposes.

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

TRANSFER TAX NOT REQUIRED Director of Finance

BALTIMORE COUNTY, MARYLAND, Authorized Signature

Authorized Signature

Jac. 11-89

PETITIONER'S
EXHIBIT

1

· 1	AS WITNESS the due execution hereof by the aforenamed Grantors.
	TEST: Ohn To Park (SEAL)
	John L. Priet (SEAL)
	Catherine M. Priet
* 1	Country to with
4.4	State of Maryland, Baltimore Courty, to wit: I HEREBY CERTIFY that on this I Hereby Certify that on this Notary Public of the State of Maryland, in and for the the year 1984, before me, the subscriber, a Notary Public of the State of Maryland, in and for the the year 1984, before me, the subscriber, a Notary Public of the State of Maryland, in and for the
•	Course and they acknowledged the foregoing been within
•	their act, and IN MY PRESENCE SIGNED AND SEALED THE SAME. AS WITNESS my Hand and Notarial Seal.
;	AS WITNESS My ILLIAN NOLLTY Public
	State of Maryland, Baltimore day of day of HEREBY CERTIFY that on this
	I HEREBY CERTIFY that on this the year 19 , before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid, personally appeared acknowledged the foregoing Deed to be and
	and IN MY PRESENCE SIGNED AND SEALED THE SAME.
	AS WITNESS my Hand and Notarial Seal. Notary Public
	State of Maryland, Baltimore , to wit:
	I HEREBY CERTIFY that on this the year 19 , before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid, personally appeared
	aforesaid, personally appeared and acknowledged the foregoing Deed to be and scknowledged the foregoing Deed to be act, and IN MY PRESENCE SIGNED AND SEALED THE SAME.
	AS WITNESS my Hand and Notarial Seal. Notary Public
	Approved as to form:
	Amistant County Sollator Harry APPROVED and ACCEPTED this
· • • • • • • • • • • • • • • • • • • •	Approved as to deep sufficiency: BALITIMORIE COUNTY, MARYLAND
. •	Assistant County Selector By County Executive
	/20/84 JHS: 1mt Index: 1/24/84 11-16-0757 JIT COURT (Land Records) [MSA CE 62-6549] Book EHK Jr. 6694, p. 0501. Printed 02/05/2008. Online
OUNTY CIRCL	JIT COURT (Land Records) [MSA CE 62-6549] Bōōk EHK Jr. 6694, p. 0501. Printed 02/05/2008. Online

KAG 17 0683 11-40 MG18310 record C D h BLANT LETTERING DEHOTER PROPESCO TERTICAL LETTERING DENOTES THE AREAS FOUND BY PLANIMETER, UNLESS STREETS HOTES. CHANGES TO PROPERTIES. ТИНО PLAT 10 ООМИНЬЮ РЯСЫ ВСЕСЬ АНО ОППУЕУЬ, ТИЕ ФЕНЕТА АНО ОТЕТАНСТВ ВНОМИ ОН РЕСРЕПТІЕВ АОЛИМИВ "A TEMPORARY EXSEMBNY AREA TO BE USED GHLY DESCRIBED OF CONSTRUCTION FOR THE THE PROPUSED RIGHT OF WAY ARE THOSE CONTAINED IN THE PURPOSE OF CASATING THE HECESSART SUPPORTING SLAPES. OSES REFERRED TO BY LIBER AND POLIC HUMBER AND BO NOT MEESSEABLY REFER TO THE MERICIAN SHOWN HEREON NER OD THEY IMPLY A CURRENT SURVEY OF SAIS PROPERTIES UN-AND ALL MIGHTS HERREY ERANTED TO SALTIMORE COUNTY, MARYLAND SHALL THEN TERMINATE AND REVERT TO THE LES LESS OD HOTED. EASEMENT AREA. G.L.B. 2934/373 O.T.G. 5263-434 . . A ... R=206.60' L=4.24 (68-011-3) EX. UTILITY EASEMENT (RW 68-011-2)(68-011-3) 9 GL.O. 3399/109 M. PRIET MIGHWAY WIDENING AREA

REVERTIBLE SLOPE EASEMENT AREA. (% (B) MICHWAY WIDENING AREA ARGHMAT WINSTONE EASEMENT AREA TO BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS BUREAU OF LAND ACQUISITION SCALE: |"= 30" PLAT TO ACCOMPANY ACQUISITION OF DISTRICT NO. 1105 POSITION SHEET NO. HIGHWAY RIGHT OF WAY - SLOPE EASEMENT 35,36 NE AREA TO BE ACQUIRED CONSTRUCTION PLAN NO EXISTING COUNTY X W AREA TO BE RELEASED TEMPORARY CONSTRUCTION AREA BUREAU OF LAND ACQUISITION PEDERAL PROJECT NO. 40. MON'S BIRIUBOA RECORBER MARYLAND PROJECT N DIVISION OF DRAFTING B. C. JOB ORDER NO. 5-323-1 CHECKEO J.L.C. 83-290-9 RW J.D. 1. 14.84

100

File RW 83-290-9 Item 9

77

BALTIMORE COUNTY, MARYLAND

Office of Finance - Revenue Division 4 4.503

REAL PROPERTY TRANSFER -- CONSIDERATION AFFIDAVIT Complete affidavit -- original and 1 copy -- for each instrument other than mortgage or deed of trust (with or without consideration). Sign and return both copies. In compliance with Baltimore County Code Title 11, Article IX, Sections 11-69 through

11-82, as amended, it is certified that an instrument described below, representing a transfer of real property including, but not limited to, fee simple estate, leasehold estate, limited estate and legal or equitable interests in real property, is offered for record in Baltimore County. The subject property is identified as follows:

IOL tecora za zazza	Prior Deed Reference: 109		
Property	Prior Deed Reference. Liber GLB 3399 Folio		
Account #	Amount of Mortgage \$		
Date of Instrument			
	Other (Cash, etc.) \$		
Documents Presented	Total Consideration \$ 500.00*		
Hwy	Total Consideration V		
X Deed	Assessed Factor \$		
Deed of Trust Mortgage			
Table Over 7 Yrs.	Exempt Status Claimed Per Baltimore		
CONCERSO	County Code		
Other Right-of-way or Easement Agreement	to transfer tex base.		
	Transferred property known es:		
Person offering instrument for recording:	Translation of the on Plat of		
	0.0022 acre highway r/w on Plat of		
Name J. Howard Shaffer	"Fullerton Farms" for the bed of SILVER		
Title Co.			
Title Co. Or Vira Burgay of Land Acquisition	SPRING ROAD and 0.0186 acre revent. slop		
Phone	Grantee Baltimore County, Maryland.		
	CLEBESS DETETHORS OF A PARTY		
Address			
Grantor: John L. Priet and Catherine M. Priet, h/w	Mailing Address		
John C. Frage			
I HEREBY CERTIFY under the penalties of perju	ry that the information given above is true		
I HEREBY CERTIFY under the penalties of paris	et.		
to the best of my personal knowledge and beli-	THEOREANT!		
signed forward for Date	THE RECORDED WITH		
	1 INSTRUMENT LE		
	at IS NOT RECITED.		
The tot record APR 13 1964			
OFFICE OF FINANCE USE ONLY Record APR 13 1984 at JE NOT RECITED. Determine S. Kahline, Jr., Clerk Date.			
Mail to Credit & Other Credit			
Tax Bill Receipt No.			
Comments			

"body corporate and political

BARBARA J. HERBERT, his wife CIVIL - GENERAL PROCEEDINGS

1/229/84CG-229

INQUISITION made and taken at Bar in the Circuit Court for Baltimore County, in the matter of Baltimore County, Maryland, a body corporate and politic, for the condemnation of the property hereinafter mentioned, witnesseth:

THAT; I, the Judge, whose name is hereunto subscribed and whose seal. is hereunto affixed, hereby fix the damages which the Defendants will sustain by the taking, use and occupation of the following property:

Being a portion of all that parcel of land located in the Eleventh Election District of Baltimore Gounty; Maryland, referredato as a reversible slope easement area containing 94 square feet of land to All'as more fully shown and described on Baltim ore County Plat No. RW 83-290-9 attached hereto and made a spart thereof.

Upon the Stipulations executed by the parties hereto and filed in chis case, I do find and determine that:

It is necessary for the Plaintiff to condemn the said property@and@chat@che@damages@sustained@by@the@Defendants@ togthis cause for the right stoff create , suse and maintain ... on said parcel such slopes as are necessary to retain and ... support the Troadsto be constructed and to beaknown ins Silver Spring Road, and/or the adjacent property; provided, however, athat at auchatime the contour of said parcel for adjacents land; is changed; somethat the easement for such slopes is now; longer necessary to retain support or protect? the proad & construction, then such easement shall cease to exist, is for the sum of %

TWO! HUNDRED FIFTY DOLLARS (\$250:00).

EXHIBIT

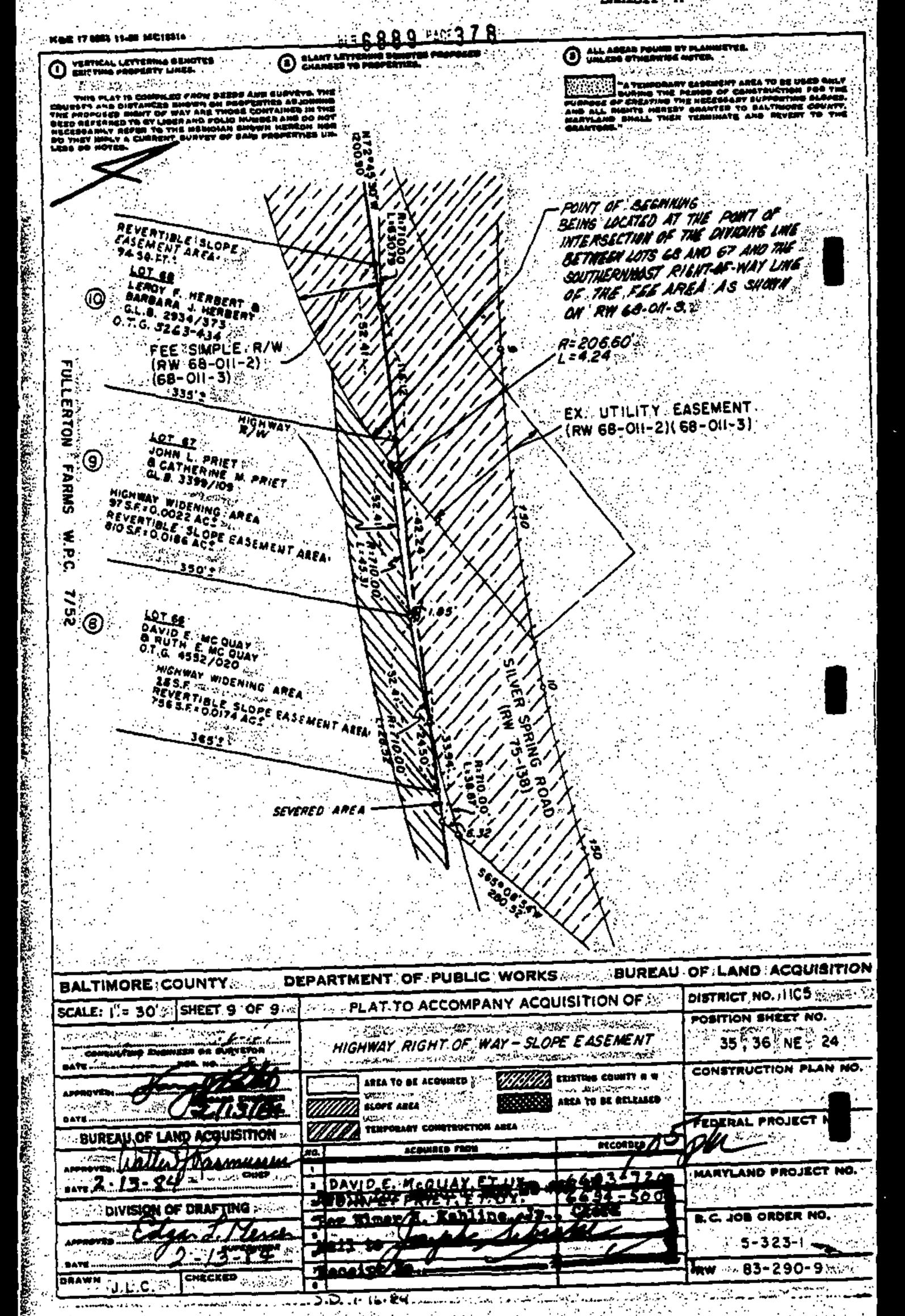
SEE 6 8 8 9 743E3 7 7

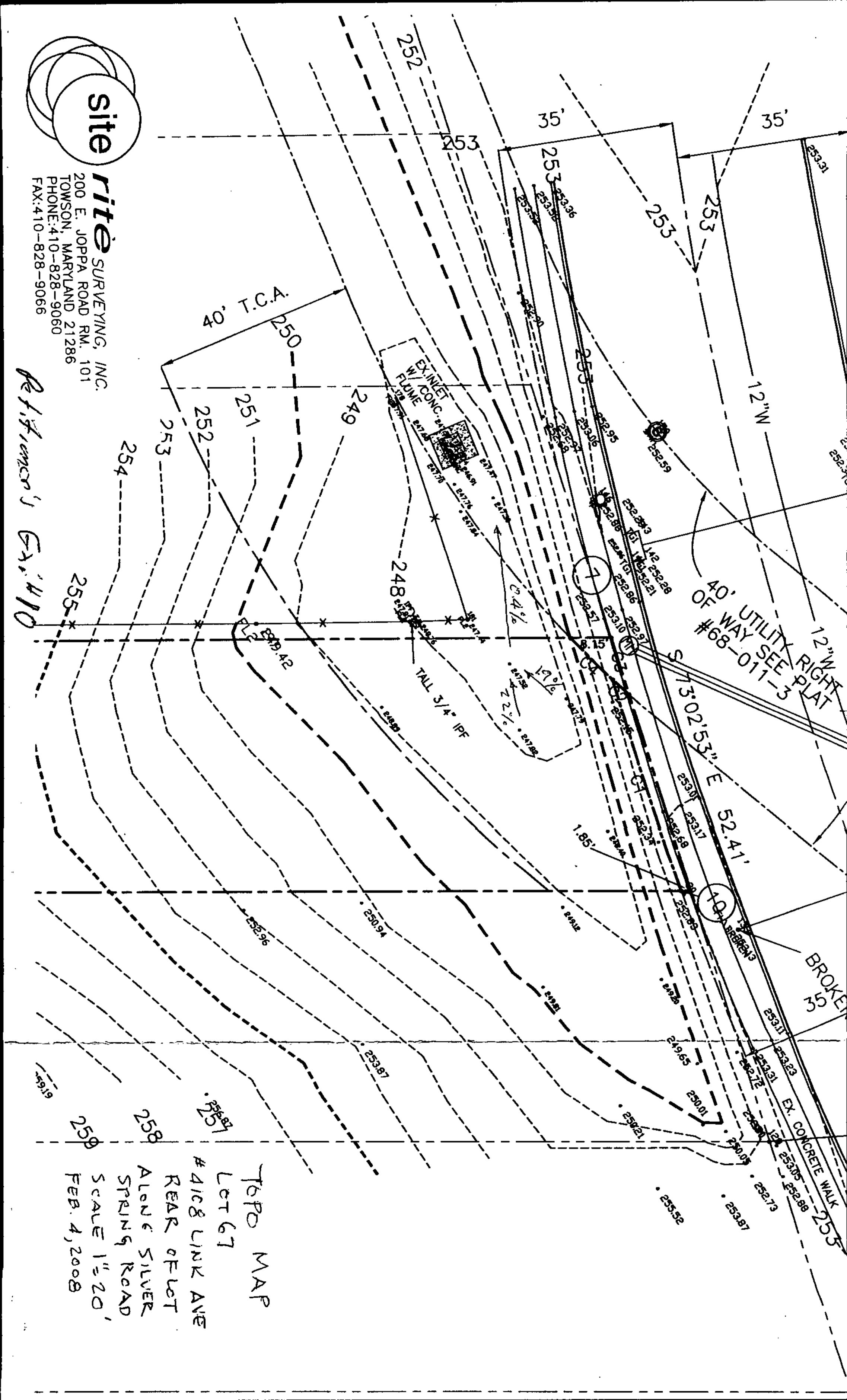
This sum is inclusive of any and all interest that may have accrued or which may accrue on said sum.

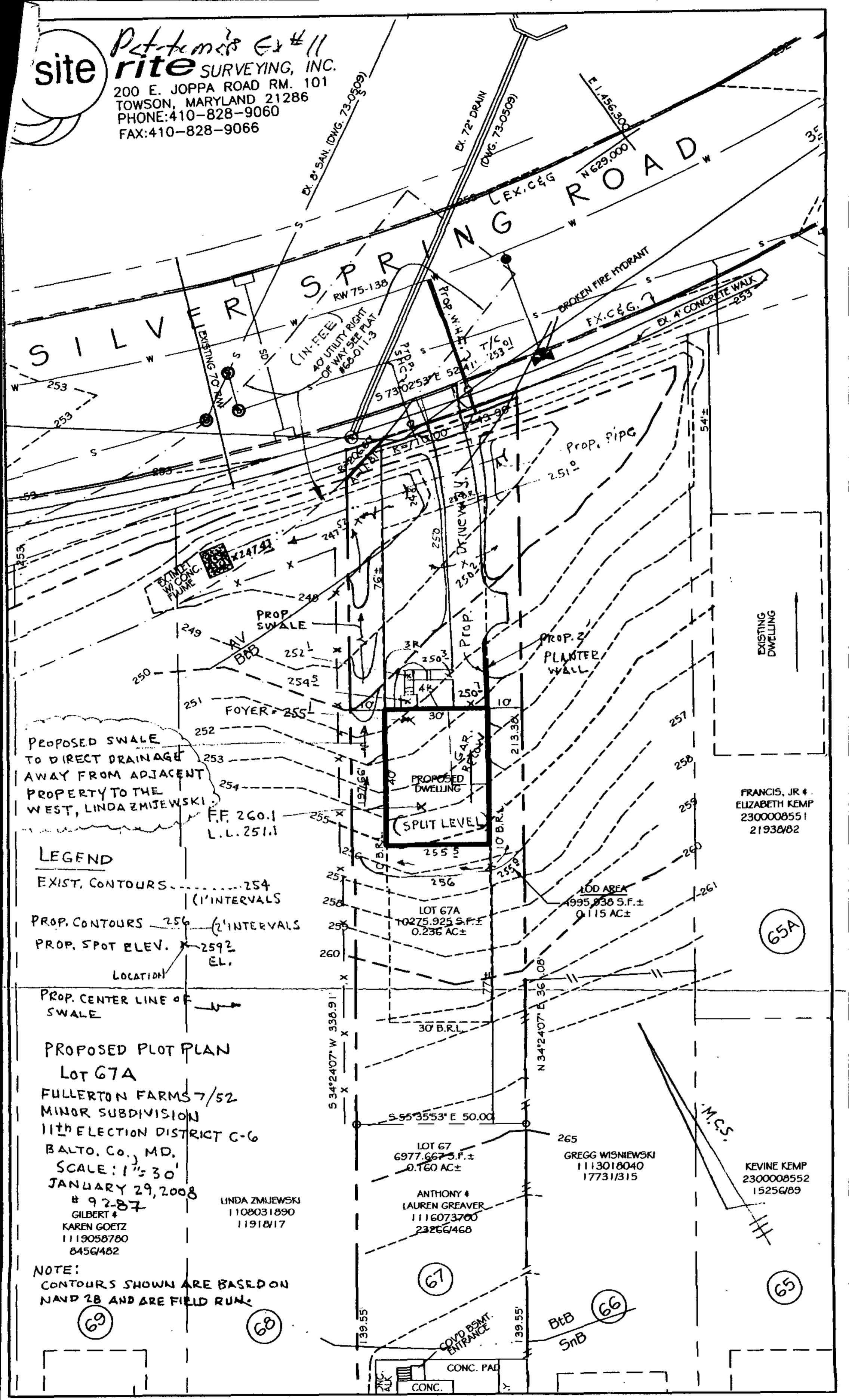
THAT upon the payment of said sum to the Defendants, the easement in the property shall be held and become vested in Baltimore County, Maryland, clear and discharged of any claims, liens or demands of the Defendants, and the said Baltimore County, Maryland, shall thereupon have the right of immediate possession of said property.

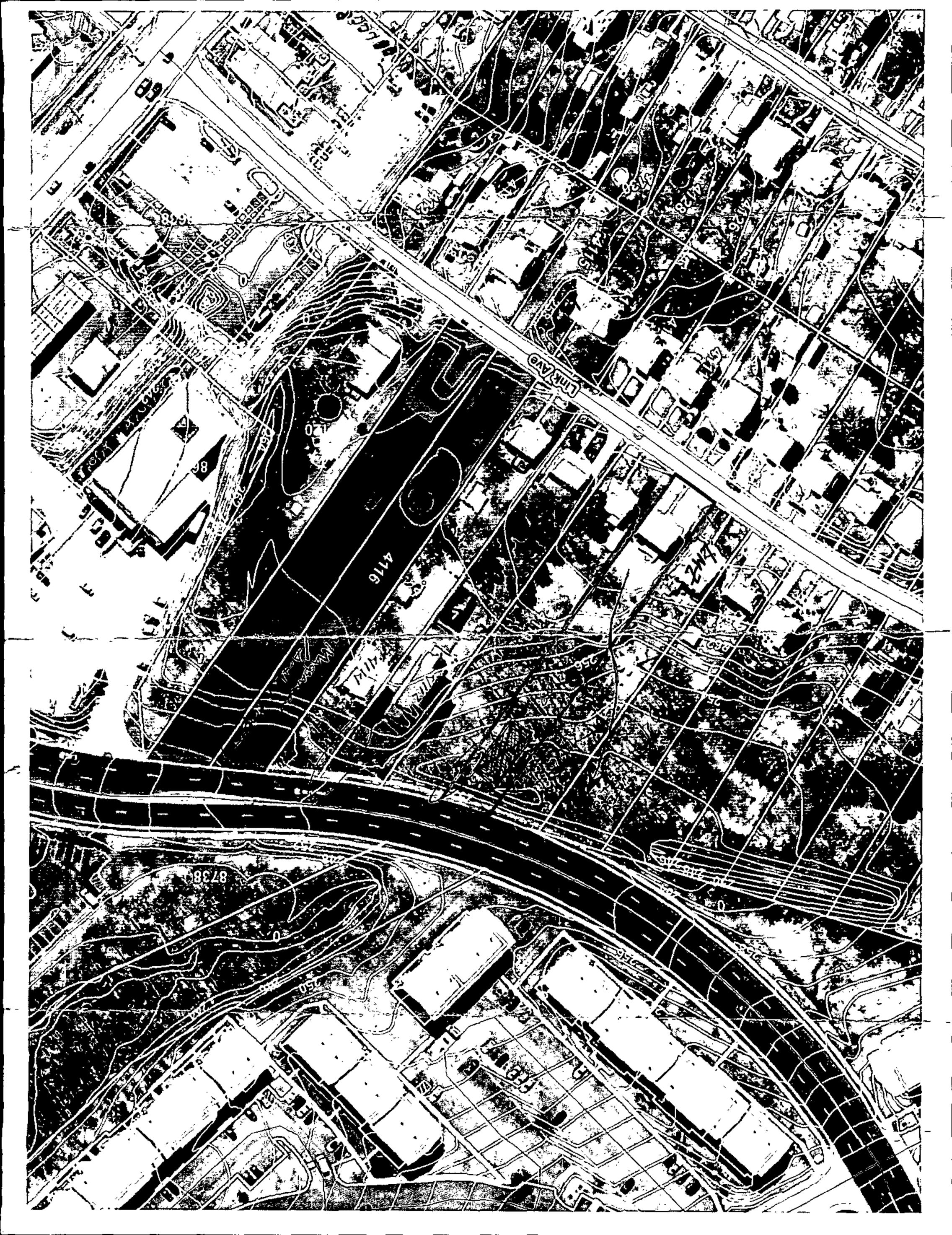
WITNESS hereof, I, the Judge, have hereunto set my hand and seal this /1 day of March, 1985.

Judge









Record 2006
Record
Record
Record

We the undersigned are opposed to the granting of the proposed variances 07147&07148A to the properties at 4108 Link Avenue & 4105 Silver Spring Road, because of the possible adverse impact to the neighborhood.

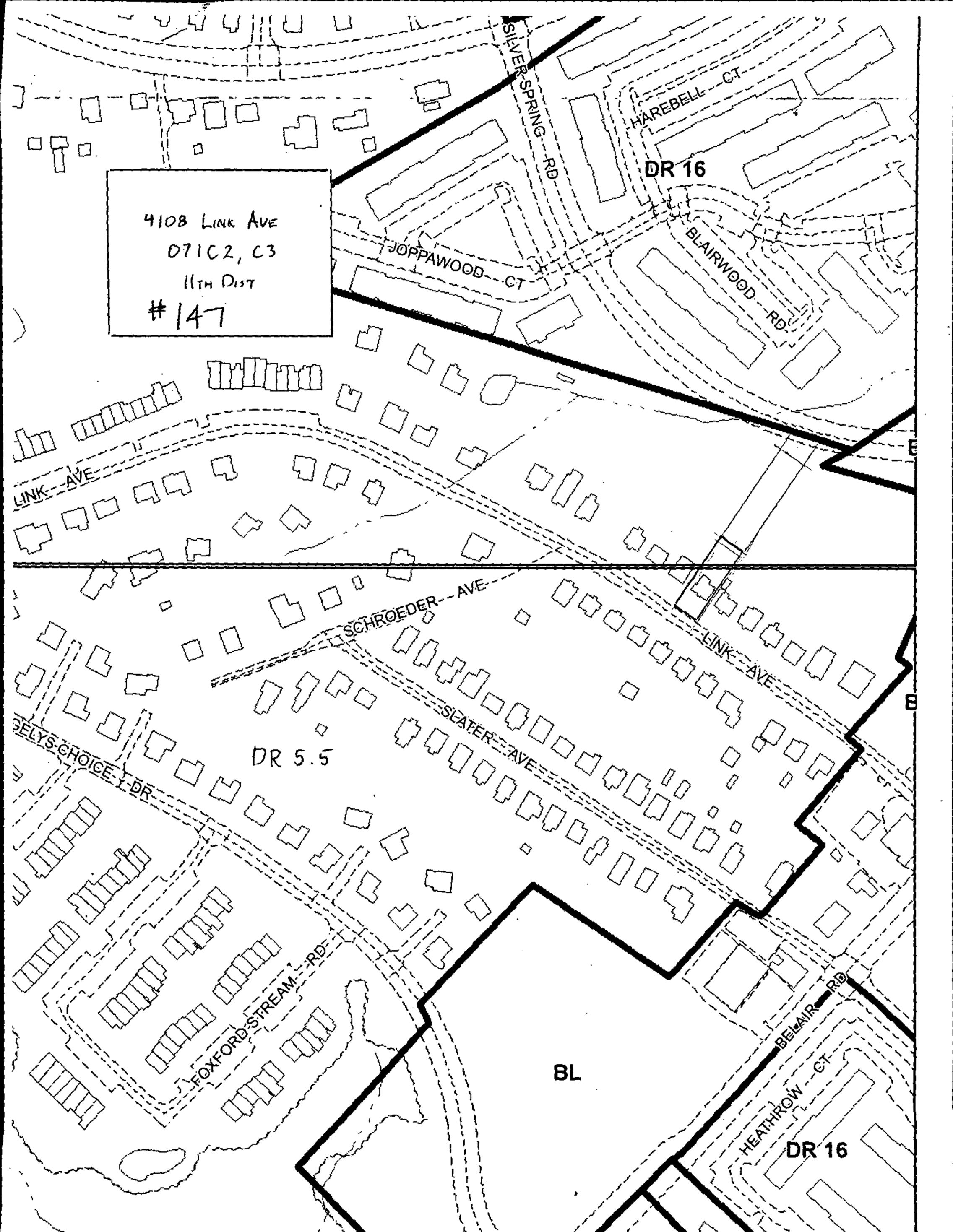
Name	Address
Juda ti Brijen 8to	4106 LINK ATE
Dreame Than	4109 Link Aus
Mart 1. Morros	4111 LINK AVENUE
Chonus Bodo	4107 link avenu
Lawrence & Mygletrauson	4117 Les 14.5
Mary Milliane	4113 1 1
Meword John 3	4118 Link au
Joseph V Collany	4117 Link Ave
Chris Autchinkon	4105 Link Ave.
Shelly Stokenses	4105 link ave.
	4103 Link Ave
Krishydester	4103 Cink Ava.
Thurs gentate	4105 Kink Avenue
Lus of million	4111 Link Aur.
Many Doos	4119 MO/C QV
town Dip	4120 UNK AVE
Nulari Bodo	14107 Link Ave
There of Winas	4120 LIN/5AE
Trong L. Willer	410/ BINK AUE
Koney L. Mille	4101 Link Cene.


PROTESTANT'S


EXHIBIT NO. 2


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
Name	Address
Master Mac	40541,210
Albert Nace	4054 106 00
Kim Gera	40546010
wireld Benduck	4057 LINK DVE
Errega Wisniewskil	4110 Linic Avenue
Megan hisniews Ki	4110 Link Querre
Junia Julianemolte	9603 Hickoryhunst Dr.
In I had	9603 Hickoryhurst D1.
factor Rans	4120 Sink an
Lu Dang	4120 Linu. Ave
CHARLENE Goeller	4111 SILVER SPRIG LD
Simp Sall-h	4111 Silver Spring RD.
Jarre Sun	4109 Link are
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







FEB 28 K

BUREAU OF ENGINEERING - BALTIMORE CO





REASONS FOR VARIANCE REQUEST

- 1. THE SUBJECT PROPERTY IS PART OF A RECORD PLAT OF "FULLERTON FARMS" DATED MAY 1922 OF WHICH THE MAJORITY OF LOTS ARE ONLY 50 FEET WIDE.
- 2. THE PROPOSED SUBDIVISION IS FOR LOTS TO BE CREATED FRONT TO BACK NOT SIDE TO SIDE AND WILL HAVE FRONTAGE ALONG LINK AVENUE AND SILVER SPRING ROAD.
- 3. OWNER DOES NOT HAVE CONTIGUOUS PROPERTY TO MEET THE B.C.Z.R. FOR LOT WIDTH; HOWEVER, DOES HAVE THE DENSITY TO ACCOMMODATE LOT AREA.

Item# 147