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

AND
FOR A VARIANCE ON PROPERTY
LOCATED ON THE SW/S SILVER
ROAD, 682' NW OF C/L BELAIR ROAD
(4105 SILVER SPRING ROAD)
11<sup>TH</sup> ELECTION DISTRICT
6<sup>TH</sup> 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 § 1B02.3 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

THEREFORE, IT IS THIS 16th day 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

Date 1-10 -07 By

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

6<sup>th</sup> Council District

Anthony M. Greaver, et al Petitioners

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

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

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

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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

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**;** •

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

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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

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.

WILLIAM J. WISEMAN, III Zoning Commissioner for

**Baltimore County** 

)ate

# BALTIMORE COUNTY, MARYLAND

#### INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

DATE: November 16, 2006

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

NOV 1 7 2006

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 the site plan submitted.

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 30<sup>th</sup>, 1955. The subject property had its original lot created as part of a subdivision prior to March 30<sup>th</sup>, 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.

Date 10 Con City 3v

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



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) 11<sup>th</sup> Election District - 6<sup>th</sup> 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

	" Tior	011	C	1
for the property located at	#4105	Silver	Spring Koad	Д_
which is pres	antly zor	DR	5.5	_
which is bres	Curry Zor	<u>D.</u>		

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) 1802.3.C.1 - to permit a proposed dwelling to be constructed on a lot with a 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. I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

# Contract Purchaser/Lessee:

#### Legal Owner(s):

SOM ACT I WIGHT			
		Anthony Greaver	
Vame - Type or Print	Name	Signature  B- Type or Print  Nothing 1/2  Signature	<del></del>
Signature		Lauren Greaver	
Address	Telephone No.	Name - Type or Print M. Linguist.	
City	Zip Code	Signature	-6189
Attorney For Petitioner:			one No.
•		Baltimore MD 21236 State Zip Code	<u>5</u>
Name - Type or Print	City	Representative to be Contacted:	
Signature		Site Rite Surveying, Inc.	
Company		Name 200 E. Joppa Road, #101 (410) 82	28-9060 one No.
Address	Telephone No.	Towson MD 21286	
City	Zip Code	City	ip Code
•		OFFICE USE ONLY	
Case No. 07-148-A		ESTIMATED LENGTH OF HEARING	
Case 140.	Reviewed By	UNAVAILABLE FOR HEARING	
REV 9/15/98		10/02/06	

#### 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 #148

#### ZONING DESCRIPTION #4105 SILVER SPRING ROAD

BEGINNING at a point on the southwest side of Silver Spring Road which is 70 feet wide at the distance of 682 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 0.236 of an acre, more or less. Also known as #4105 Silver Spring Road and located in the 11<sup>th</sup> Election District, 6<sup>th</sup> Councilmanic District.

(NOTE: TO BE KNOWN AS LOT 67A UPON AN APPROVED MINOR SUBDIVISION PLAN TO BE SUBMITTED UPON THE OUTCOME OF THIS PETITION.)



Michael V. Moskunas Reg. No. 21175

Site Rite Surveying, Inc. 200 E. Joppa Road, Suite 101 Towson MD 21286 (410) 828-9060 #148

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: # 07-148-A

- 4105 Silver Spring Road

Southwest side Silver Spring Road, 682 feet +/- north-west of centerline Belair Road.

Legal Owner(s): Anthony and Lauren Greaver
Variance: To permit a proposed dwelling to be constructed
ed on a lot with a width of 50 feet in lieu of the required 

Hearing: Wednesday, November 29, 2008 at 11:00 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 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 11/644 Nov. 14

# CERTIFICATE OF PUBLICATION

1116,2006
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 11 14 ,20 <u>06 .</u>
The Jeffersonian
Arbutus Times
☐ Catonsville Times
☐ Towson Times
☐ Owings Mills Times
□ NE Booster/Reporter
☐ North County News

LEGAL ADVERTISING

ISCELLANEOUS RIBUTION FE CASHIER

#### CERTIFICATE OF POSTING

Baltimore County Department of

County Office Building, Room 111

111 West Chesapeake Avenue

Attention: Christen Matthews

The sign(s) were posted on \_

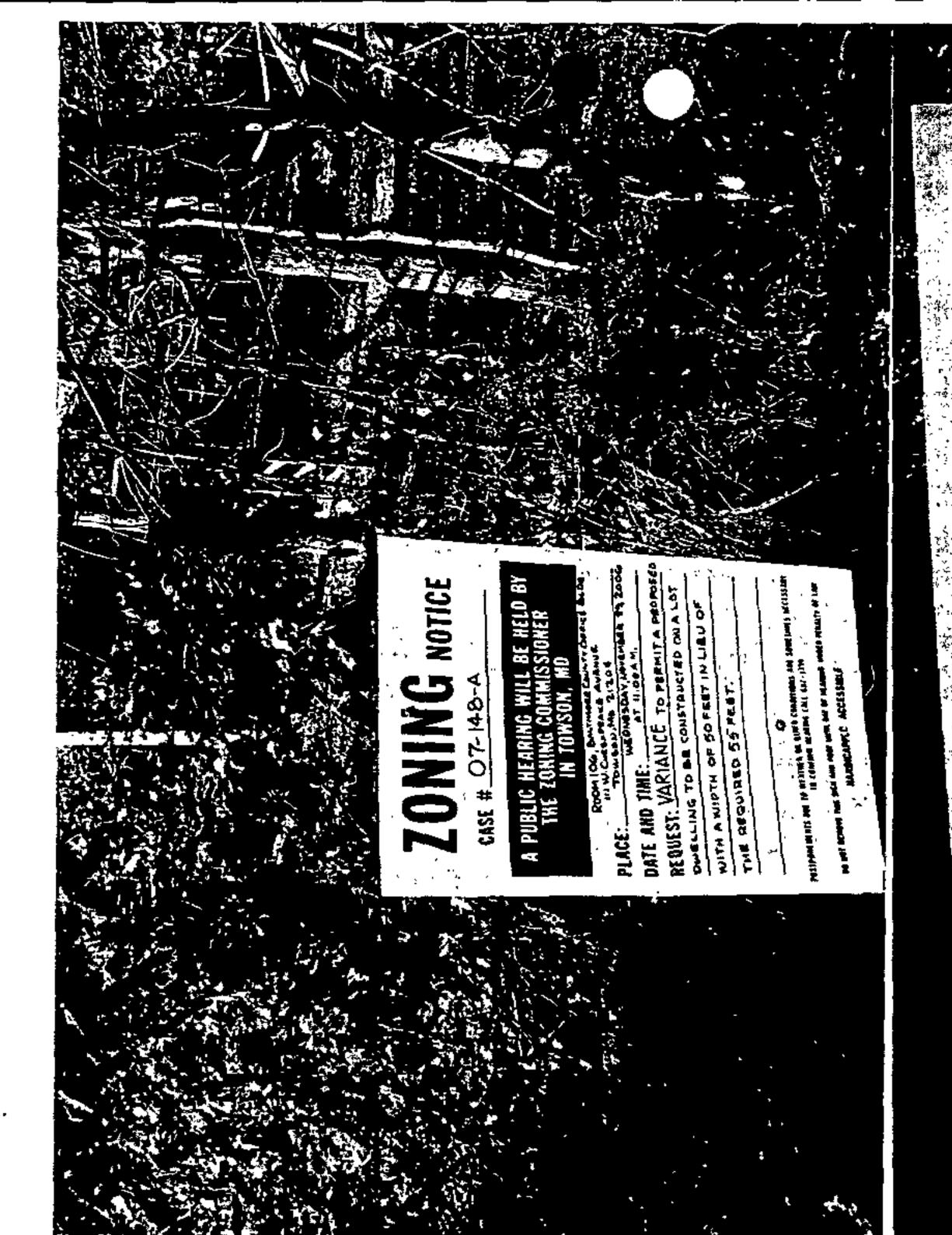
Towson, MD 21204

Permits and Development Management

Petitioner/Developer: ANTHONY GREAVER

Date of Hearing/Closing: MOV. 29. 700.6 Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the propery located at # 4105 SILVER SPRING ROAD Sincerely, (Signature of Sign Poster and Date) CJARLANED E. MOORE 3225 RYERSON CIRCLE BAUTIMORE, MD, 21227 (City, State, Zip Code) (Telephone Number)

RE: Case No.: 07-148-A



# LONING NOTICE

CASE # 07-14-8-A

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

DATE AND TIME: MEDNESDAY, NOVEMBER 29, 2006

REQUEST: VARIANCE TO PERMIT A PROPOSED

DWELLING TO BE CONSTRUCTED ON A LOT

WITH A WIDTH OF SO FEET IN LIEU OF

THE REQUIRED 55 FEET.

HANDICAPPED ACCESSIBLE

Requested: 3/26/2007

# APPEAL SIGN POSTING REQUEST

CASE NO. 07-148-A

#### 4105 SILVER SPRING ROAD

11<sup>TH</sup> ELECTION DISTRICT

مح APPEALED: 2/10/2007

ATTACHMENT - (Plan to accompany Petition - Petitioner's Exhibit No. 1)

### \*\*\*COMPLETE AND RETURN BELOW INFORMATION\*\*\*\*

# CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals 400 Washington Avenue, Room 49 Towson, MD 21204

Attention: Kathleen Bianco

Administrator

CASE NO.: 07-148-A

LEGAL OWNER: ANTHONY GREAVER

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

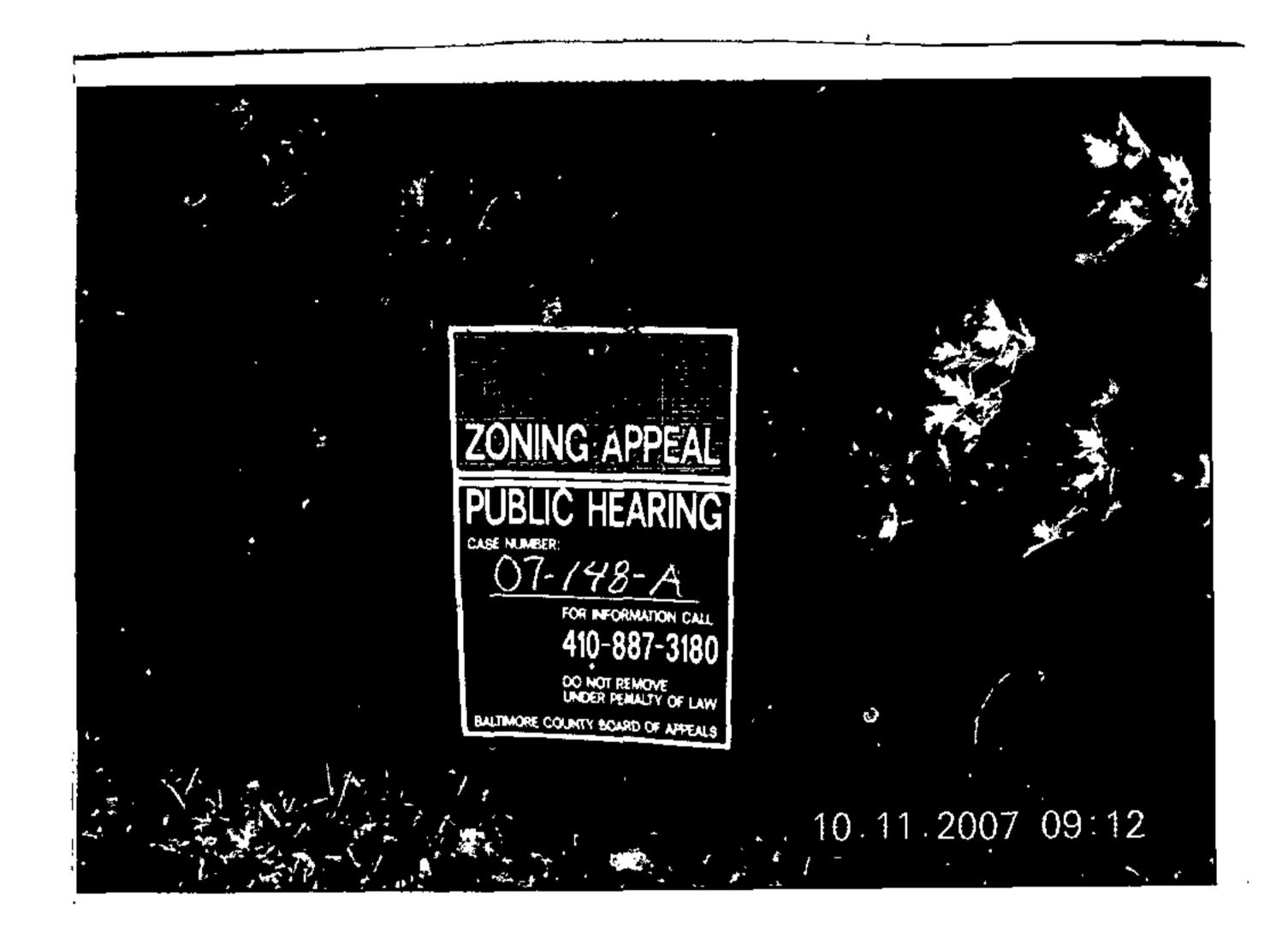
4105 SILVER SPRING ROAD

4105 SILVER SPRING ROAD	,
The sign was posted on 19/25, 2007.  By:	29A8
(Signature of Sign Poster) Sett Adulte.	•
(Print Name)	

# PHOTOGRAPHIC RECORD

Citation/Case No.: 07-148-A

Date of Photographs: 10-11-07 4/105 Silver Spring Rd.



photographs set out above, and that these photographs I HEREBY CERTIFY that I took the (number of photos)

fairly and accurately depict the condition of the property that is the subject of the above-referenced citation/case number on the date set out above.

Egforcement Office



JAMES T. SMITH, JR. County Executive

October 11-84 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: 07-148-A

4105 Silver Spring Road

Southwest side Silver Spring Road, 682 feet +/- northwest of centerline Belair Road.

11<sup>th</sup> Election District – 6<sup>th</sup> Councilmanic District

Legal Owner(s): Anthony and Lauren Greaver

<u>VARIANCE</u> To permit a proposed dwelling to be constructed on a lot with a width of 50 feet in lieu of the required 55 feet.

Hearing: Wednesday, November 29, 2006 at 11:00 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: 07-148-A

4105 Silver Spring Road

. Southwest side Silver Spring Road, 682 feet +/- northwest of centerline Belair Road.

11th Election District – 6th Councilmanic District

Legal Owner(s): Anthony and Lauren Greaver

<u>VARIANCE</u> To permit a proposed dwelling to be constructed on a lot with a width of 50 feet in lieu of the required 55 feet.

Hearing: Wednesday, November 29, 2006 at 11:00 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**

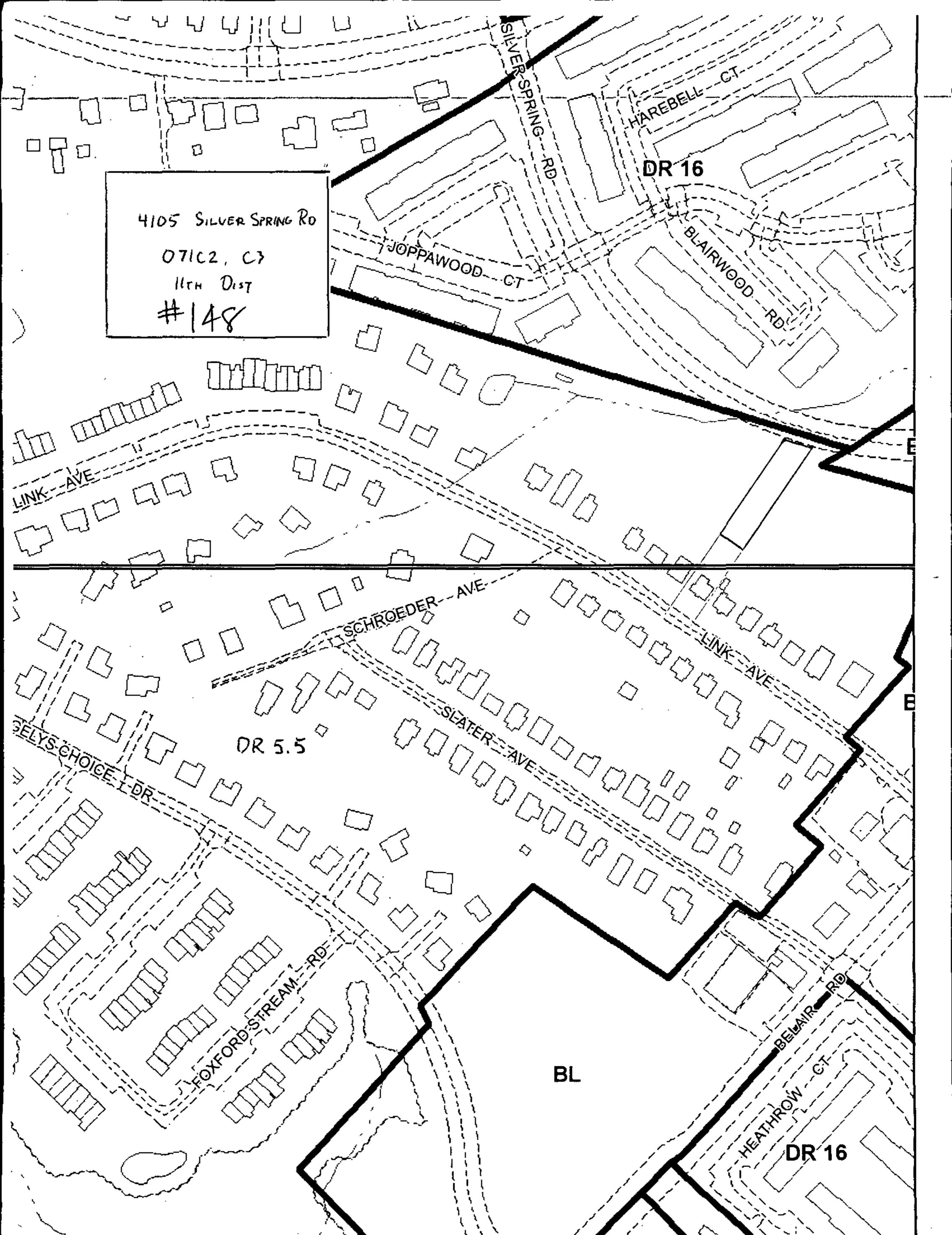
# ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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.

Item Number of Case Number: 07-148-A	
Item Mannet of Case Mannet.	
Petitioner: Anthony Grearer and Lawren Grearer	
Address or Location: 4105 Silvw Spring Road	
PLEASE FORWARD ADVERTISING BILL TO:	
PLEASE FORWARD ADVERTISING BILL TO:  Name:AMMY Graww and Lauran Graver	
Name: Anthony Graver and Lauren Greaver	· .
Name: Anthony Graver and Lauren Greaver	
Name: Anthony Graver and Lauren Greaver Address: 4108 Link Avenue	





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: 07-148-A, 4105 Silver Spring Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 2, 2006.

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

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

Very truly yours,

W. Carl Richards, Jr.

Supervisor, Zoning Review

U. Callahal D

WCR:amf

Enclosures

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

### 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: OCTOBER 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. 7-48-A 4109 SILVER SPRING ROAD CHREAVER PROPERTY

VARIANCE - TO PERMITA
PROPOSED DWELLING WITH
A WIDTH 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. 7-148-4.

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,

Engineering Access Permits

Division

SDF/MB



# 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

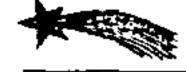
Item Number(s): 145 through 156

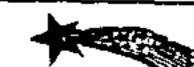
Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

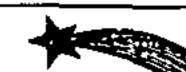
1. The Fire Marshal's Office has no comments at this time.

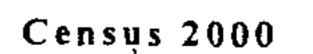
Lieutenant Roland P Bosley Jr. Fire Marshal's Office 410-887-4881 (C)443-829-2946 MS-1102F

cc: File











# BALTIMORE COUNTY, MARYLAND

#### INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

Zoning Advisory Petition(s): Case(s) 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:

Division Chief:

CM/LL

1.17 £ 200.

**DATE:** October 31, 2006

# BALTIMORE COUNTY, MARYLAND

# INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

DATE: November 16, 2006

NOV 1 7 2000

DANG COMPRONER

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

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 30<sup>th</sup>, 1955. The subject property had its original lot created as part of a subdivision prior to March 30<sup>th</sup>, 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 Atttachment



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

September 19, 2007 #7685

Ms. Kathleen Bianco, Administrator County Board of Appeals for Baltimore County 400 Washington Avenue Room 49 Towson Maryland 21204

RE:

Petitions for Variance

Case Nos.: 07-147-A and 07-148-A

Dear Ms. Bianco:

Please enter my appearance on behalf of the Appellant Linda M. Zmijewski, who filed an appeal concerning the properties located at 4108 Link Avenue and 4105 Silver Spring Road. The appeal was taken on February 5, 2007 from the Decision of William Wiseman dated January 10, 2007. Please advise when this matter is scheduled before the Board.

If you have any questions, please feel free to give me a call.

Very truly yours,

JCH:mlg

SEP 4 1 2007

BALTIMOHE COUNTY **BOARD OF APPEALS** 

# BALTIMORE COUNTY, MARYLAND

#### INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

**DATE:** May 15, 2007

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

**SUBJECT:** 

3506 Gwynnbrook Avenue

**INFORMATION:** 

**Item Number:** 

7-148

**Petitioner:** 

Associated Jewish charities of Baltimore

Zoning:

DR 1

Requested Action:

Variance

#### SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request. After reviewing the site plan and elevation drawings, this office is of the opinion that the proposed sign is well within the character of the establishment and would add aesthetic value to the premises.

For further information concerning the matters stated here in, please contact Nkechi Hislop at 410-887-3480.

Reviewed by:

Division Chief: AFK/LL: CM

RE: PETITION FOR VARIANCE

4105 Silver Spring Road; SW/S Silver Spring

Road, 682' NW c/line Belair Road

11<sup>th</sup> Election & 6<sup>th</sup> Councilmanic Districts

Legal Owner(s): Anthony & Lauren Greaver\*

Petitioner(s)

BEFORE THE

**ZONING COMMISSIONER** 

**FOR** 

**BALTIMORE COUNTY** 

07-148-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

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Towson, MD 21204

(410) 887-2188

# <u>CERTIFICATE OF SERVICE</u>

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

GCT 1 2 2006

Per V

LEASE PRINT CLEARLY

CASE NUMBER 01-141-A

THEIR NI-NUIS SCARICITIES

E- MAIL					
DOWSON, MD 212BC Kuysulle, Md 21087					
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AK RIK Symmy Inc. Antroay Grand					

PLEASE PRINT CLEARLY

CASE NAME CASE NUMBER DATE

7-3 1

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# CITIZEN'S SIGN-IN SHEET

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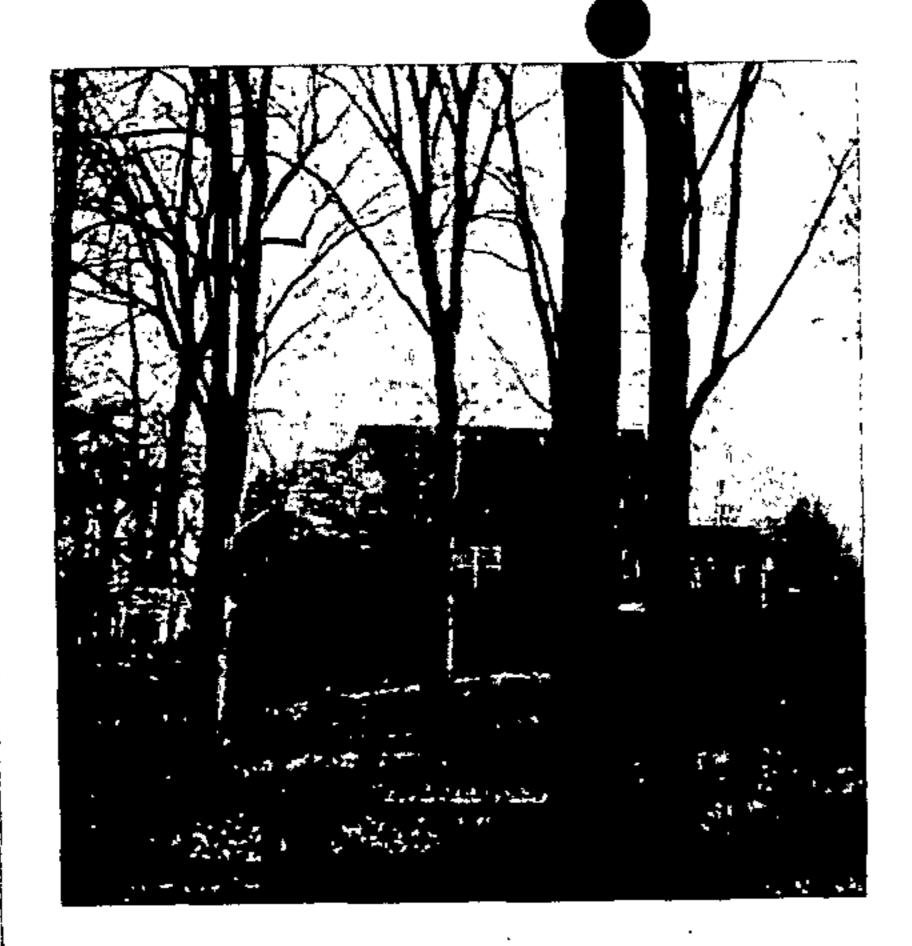
Case No.: 07-147 A 1 07-148 A (Combined Heary)

Exhibit Sheet

# Petitioner/Developer

# Protestant

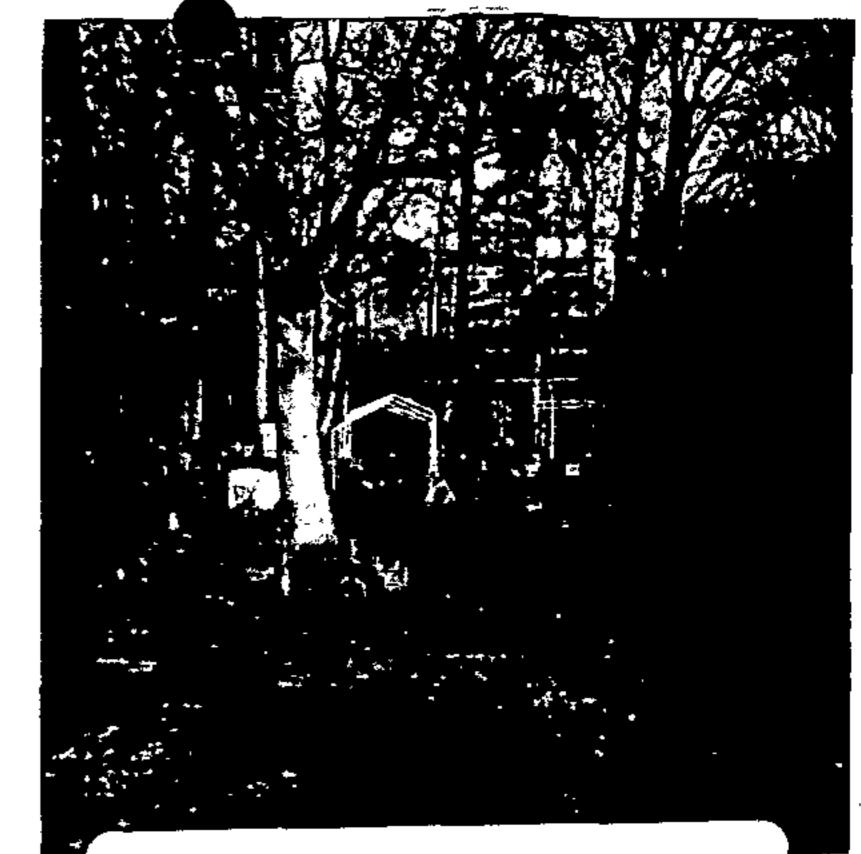
No. 1	RED LINE SITE PLAN	Collect with 1 F
No. 2	3 - 8" Proposed Sanifay Linz 3 - Minor Sub- Lot 65 - Minor Sub- Lot 64	Petition against Variances
No. 3	SUBDIVISION PLAT Fuller ton Farmo - 1922	-
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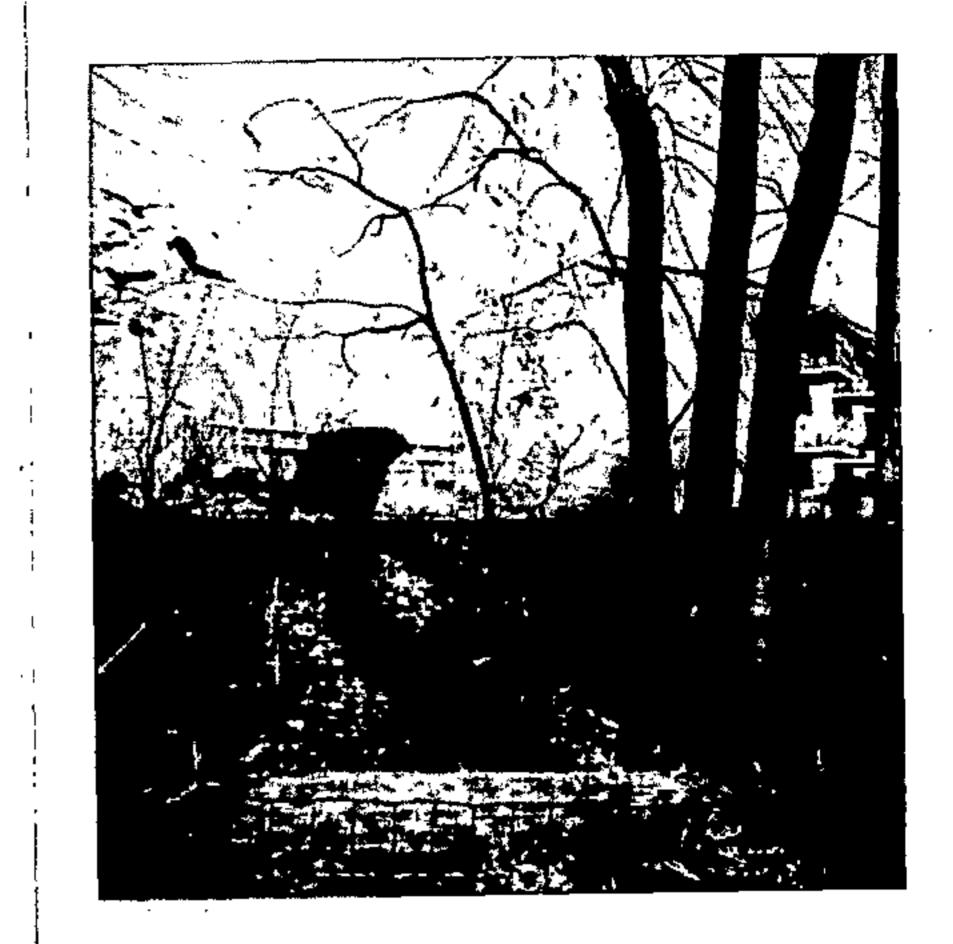
PROTESTANT'S

CHUCKNEY / A THU / F

EXHIBIT NO. / A



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Name	Address
Luda ti Trujen 8to	4/06 LINX AUX.
Dreama France	4109 LINK AUE
mal 9. morros	4111 LINK AVENUE
Chanles Bodo	4107 link avenue
Lawrence Myslethauser	4117 Lensk aus
Mario Milliane	4113 Jul lo
Mewour John 3	4118 Link au
Joseph V Ollowyk	4117 LINK AVE
Chris Statchinkon	4105 Link Ave.
Ahrthe Westerner	4108 link Ave.
	4103 Link Ave
Krishyblester	4103. Cink Ave.
shum semboth	4105 Kink Avenue
Lux of million	4111 Cinte Ave.
Many Dos	4119 Mal an
fotute Dif	4120 UNK AVE
Nubari Bodo	4407 Link Ave
There if Q Wans	4120 LIN/5AR
Ormes nuille	410/ BINK AUE
Tiney L. Wille	4101 Link Cine.

PROTESTANT'S

EXHIBIT NO.

Name	Address
Meather Hore	4054 Lincare
Albert Nace	4054 L'91 MB
Kim Gera	4054 Lincave
will Dendyck	4057 LINK AVE
Grego Wisnewskil	4110 LINIC Avenue
regantisniewski	4110 Link Duerre
Junia Julianeuski	9603 Hickoryhunst Dr.
In I had	9603 Hickoryhurst D1.
Partotte Mario	4120 Sink an
Lu Dang	4120 Ling. Ave
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Sur Jall-h	4111 Silver Spring RD.
Jarre Sua	4109 Link are
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# LETTER OF TRANSMITTAL

Site Rite Surveying, Inc.

DIRECT CORRESPONDENCE TO:

Shell Building, Room 101 200 East Joppa Road Towson, Maryland 21286 410-828-9060 Fax 410-828-9066

TO: Zomny Commission	DATE: 12/4 06	
	SUBJECT: Casc 07- 147- A	
	07-148-A	
ATTENTION: MY-BILL WISCL	ManOUR FILE:	···
	OVER, TRANSMITTING VIA, U.S. MAIL () THE FOLLOWI	ING:
QUANTITY DRAWING	DESCRIPTION AND/OR TITLE	
Without nom	Nomeowner per testimony given by Tony Grea	ave
	;	<del></del>
	DEC 1 2000	
	······································	
TRANSMITTED AS INDICATED BELOV		
PER AGREEMENT  PER YOUR REQUEST	APPROVED - DWG(S)	
FOR YOUR INFORMATION	RETURNED FOR CORRECTION - DWG(S)	
FOR APPROVAL	PLEASE RESUBMIT - DWG(S)	
☐ FOR COMMENT		
COPY(S) OF	SENT TO	
COPY(S) OF	SENT TO	
COPY(S) OF	SENT TO	
REMARKS: STORM DRAIN DE	DEPT.S PHONE # IF YOU NEED IT TO VERIFY. (YM.)	
	NE COPY OF THIS TRANSMITTAL AS A RECEIPT	<del></del>
VERY TRULY YOURS,		
	RECEIVED BY:	
Site Rite Surveying, Inc. SENT BY: DWWWWW	DATE:	

November 30, 2006

RE: Case Number: 07-147-A, 07-148-A

To Whom It May Concern:

My name is Lauren Greaver. I live at 4108 Link Avenue, Nottingham, Md, 21236. I have owned my home for approximately one year. I have walked the back lot frequently and have never seen any water or noticed saturation from water of any kind.

I have not been approached by any neighbor with concerns over a building lot. As a matter of fact, a resident at 4110 Link Avenue approached me, expressing an interest in buying the lot for her son. If you have any questions, please feel free to contact me at (w) 410-887-5267, (c) 410-245-4399, (h) 410-529-0715.

Sincerely,

Lauren Greaver

Lauran Shari

1/20

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 \* OF BALTIMORE COUNTY

the c/l Belair Road (4109 and

(4111 Silver Spring Road) \* Cases Nos. 97-21-A, 97-22-A

11th Election District 97-23-A, and 97-24-A

6th Councilmanic District

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 1802.3.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.

Baltimore County this day 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

# To Whom This May Concern:

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

Amila la Françaisser 12-5-01

RECEIVED

FEB 0 5 2007

er and

Case No.: 07-147 A 1 07-148 A Combined Heavy)

**Exhibit Sheet** 

# Petitioner/Developer

# Protestant

No. 1	RED LINE SITE PLAN	Collectwish 1 1A thru 1F
No. 2A	- 8" Proposed Sanifay Line - Minor Sub- Lot 65 - Minor Sub- Lot 64	Petition againste Variances
No. 3	SUBDIVISION PLAT Fuller ton Farmo - 1922	
No. 4		
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No. 11		
No. 12		

Name	Address
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Dreama Tean	4109 LINK AUE
mand or morgan	4111 LINK AVENUE
Chonles Bodo	4107 link avenue
Lawrence Myslehauson	4117 Lenk aus
Mary Milliane	4113 Just lo
Mewou John 3	4118 Link au
Joseph V Ollowyh	4117 Link Ave
Chris Statchinson	4105 Link Ave.
Mullu Witholtenser	4108 link ave.
	4103 Link Ave
Krishybleoter	4103 Cink Aug.
shund sembert	4105 Kink Avenue
Lux of miller	4111 Cint Au.
Many Dos	4119 WOL QV
fotute Dif	4120 UNK AVE
Mulari Bada	4107 Link Ave
March Col Dina	4120 LINKAR
Ormes mille	410/ BINK AUE
Tiney L. Miller	4101 Link Cone.

PROTESTANT'S

EXHIBIT NO.

2

Name	Address
Meather Hore	4054 Lincare
Albert Mare	4054 Link we
Kim Gera	4054 Link ave
wind Denduck	4057 LINK AVE
Gregowishiewskil	4110 LINIC AVENUE
Megan Kignjewski	4110 Link Queru
Junia Julianemolti	9603 Hickoryhurst Dr.
In 1 L	9603 Hickoryhurst D1,
Radotte Rans	4120 Sink au
Lu Dang	4120 Linu. Ave
CHARLENE Goeller	4111 SILVER SPRING KD
Jarre Seson	4111 Silver Spring RD.
Jarry Sesal	4109 Link ave
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Re: Anthony Greaver

Pertistant is Perfuis

Exhibits 1 SThur 1F



PROTESTANT'S

Collectively / Attm / F

EXHIBIT NO. \_/A



1B





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1C





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