IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE, AND VARIANCE	*	BEFORE THE
SW side of Church Road, 340 feet SE of Blackforest Road	*	DEPUTY ZONING COMMISSIONER
4th Election District	*	FOR
4th Councilmanic District **(602A Church Road)**	*	BALTIMORE COUNTY
W. Marcus and Cindi Lynn Levinson *Petitioner*	* *	CASE NO. 07-211-SPHA and CASE NO. 07-210-A

* * * * * * * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing and Variance (Case No. 07-211-SPHA) and Variance (Case No. 07-210-A) filed by the legal owners of the subject property, W. Marcus and Cindi Lynn Levinson. The Petitioners are requesting Special Hearing relief for property owned at 602A Church Road.

The Petitioners are seeking a Variance (Case No. 07-210-A) to permit an individual side yard on the east side of the existing dwelling of thirty-six (36) feet in lieu of the required fifty (50) feet; and to permit an individual side yard on the west side of the existing dwelling of thirty-nine (39) feet in lieu of the required fifty (50) feet.

In Case No. 07-211-SPHA the Special Hearing request is filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a lot having a land area of 0.91 acres in lieu of the required 1.5 acres and a variance from Section 1A04.3.2.b to permit an individual side yard on the east side of a proposed dwelling of thirty-six (36) feet in lieu of the required fifty (50) feet; and to permit an individual side yard on the west side of a proposed dwelling of thirty-six (36) feet in lieu of the required fifty (50) feet.

The property was posted with Notice of Hearing on December 7, 2006, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition,

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a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on December 26, 2006, to notify any interested persons of the scheduled hearing date.

Applicable Law

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

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

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

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

Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Bureau of Environmental Planning and Resource Management dated December 29, 2006 which contains restrictions, and a copy of which is incorporated herein and made a part hereof the file.

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Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief were W. Marcus Levinson, Petitioner, and Lawrence M. Hammond, Esquire, who represented the Petitioner. There were no protestants or citizens at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The subject property contains 1.8 acres zoned RC 5 and is improved by the Petitioner's single family dwelling as shown in Exhibit 1. Access to Church Road is given by a panhandle driveway approximately 20 feet wide as shown.

Mr. Hammond indicated that the property is composed of two parcels which are reflected in the Petitioner's deed, Petitioner's Exhibit 3 and shown pictorially on the redline tax map, Exhibit 4. Parcel 1 is listed as being one half of lot 10 and part of lot 2 of an unrecorded plat of John C. Whitaker's Land. Parcel 2 is listed similarly as being one half of lot 10 and part of lot 2 of the unrecorded plat of John C. Whitaker's Land.

The Petitioners' existing single family home is located on Parcel 1 as shown on Exhibit 1 and the Petitioners propose a new single family dwelling on parcel 2 as shown in Exhibit 2. Parcel 2 is presently vacant. Each parcel has its own tax assessment account as shown in the SDAT data sheets, Exhibits 5A and 5B.

The need for variances arises for the existing house because the house is approximately 36 feet from the eastern property line and 39 feet from the common boundary. RC 5 regulations require a 50 foot side yard setback.

In regard to the proposed dwelling, as shown on Exhibit 2, the proposed home would be 36 feet from both the common boundary and the western property line. Again 50 feet is

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required. In addition the Petition requests approval by special hearing for Parcel 2 for a lot size of 0.91 acres (39,640 square feet) in lieu of the 1.5 acres required by the RC 5 regulations. He opined that Parcel 2 was a lot of record prior to 1981 when the division of the property was divided by deed.

In regard to the latter, Mr. Hammond proffered that the unrecorded Whitaker plat was created in 1945, and the property had previously been zoned R-40 in 1955 which allowed lots of 30,000 feet so that under R-40 both lots would have been allowed. However he noted that in 1971 the property was rezoned to RDP and then later rezoned to RC 5 with the present 1.5 acre minimum size. The existing home was built in 1968 and met the RDP regulations.

In regard to zoning merger, he noted that there have never been any improvements built on parcel 2, the only use the Petitioner made of it was to cut the grass (see photographs of Exhibit 6) and again each parcel has its own tax assessment account (Exhibit 5). Therefore he opined there has been no zoning merger.

He also opined that allowing a new house on Parcel 2 would be compatible with the pattern of development of the neighborhood as there is an existing house similarly located to the Petitioner's house to the east of the property as shown on Exhibits 1 and 2 and photograph Exhibit 7. He noted that no one came to the hearing to object to the proposed home and opined that allowing the new home on Parcel 2 would be within the spirit and intent of the regulations which encourage small in fill development such as being proposed.

At this point in the hearing, a general discussion of whether or not the proposed subdivision would create the need for variances and therefore be self imposed. In response to this question, the record of the case was held open to allow the Petitioner to present written argument which was received March 9, 2007. In the Memorandum Mr. Hammond noted the

above facts and further asserted that the subject parcels have been assessed separately since 1969. He further proffered that the improved lot was conveyed by Arlington Contractors Inc to Mr. and Mrs Carpenter by deed dated April 2, 1969 and thereafter the same parties conveyed the unimproved parcel by a separate deed in 1970. He noted that both parcels met the area regulations of the RDP zone when created by deed in 1969 and that DPDM recognizes lots created by deed before 1981 as legitimate lots of record. He also noted that the parcels meet the definition of lot of record of Section 101 of the BCZR and as such can be considered for relief under the RC 5 regulations as they were in existence prior to September 2003 and a not located in a subdivision. Finally he argued that parcel 2 is a legal lot with size close to the prior RC 5 area regulations and should be approved.

Findings of Fact and Conclusions of Law

In regard to zoning merger the evidence for merger is that the two parcels are adjacent, in common ownership and were conveyed together to the Petitioners in a single deed. The evidence against merger is that the parcels were conveyed separately in the past, have separate tax assessment accounts (albeit the assessment for parcel 2 is miniscule) and there have been no improvements on parcel 2 which would indicate a desire by this or a former owner to merge the lots. On balance I find the parcels have not merged in a zoning sense.

I raised the issue of self imposed hardship at the hearing being concerned that the Petitioner was proposing a division of the property as a new subdivision. In this case the Petitioner would have scribed the boundary creating the two parcels and therefore created the need for variances which by definition would be a self imposed hardship. It was not clear to me at the time that the parcels were created prior to 1981 when the County began to require the

division of all property go through the development regulations. The Petitioner's house was built on parcel 1 in 1968 according to the SDAT data sheet.

However Mr. Hammond asserts in his post hearing memorandum that parcel 1 was conveyed by Arlington Contractors Inc to Mr. and Mrs. Carpenter by deed dated April 2, 1969 and thereafter the same parties conveyed the unimproved parcel by a separate deed in 1970. He noted that both parcels met the area regulations of the RDP zone at the time and consequently were legal lots of record. Although I have no specific exhibit confirming this proffer, I have no reason to doubt the veracity of his statements regarding the conveyances. Based on those assertions I find the property was divided by deed in 1969.

However I have questions about his statement that the applicable zoning regulations are RDP. From my research, RDP was created by Bill 100 in 1970 and applied thereafter in 1972 during the comprehensive mapping process. See exhibit A attached. Also RDP required a minimum lot size of one acre or 43,560 sq. ft. Neither parcel would meet this requirement.

On the other hand Mr. Hammond indicated at the hearing that the property was previously zoned R40. In my mind this is the likely zoning regulation applicable at the time the division of the property was made by deed. R-40 zoning required lots having 40,000 square feet except under Section 202.1. See exhibit B attached. However two or more lots in the same ownership and in the same tract are permitted to have a minimum lot area of 30,000 square feet if the average of the lot sizes in the same ownership and in the same tract equals 40,000 square feet.

Unfortunately for the Petitioner, parcel 1 and parcel 2 do not meet the 40,000 square feet size nor the exception permitting 30,000 square feet size because the average of the two parcels is less than 40,000 square feet. For parcel 2 to meet this regulation, parcel 1 would have had to

be 40,360 square feet. As shown on Exhibit 1, parcel 1 is 39,640 square feet. Again these lots did not meet the one acre minimum size (43,560 square feet) when the tract was rezoned to RDP, or the original area requirement of RC 5. The present requirement is for lot size of 1.5 acres.

Consequently I find that the parcels were not legal lots because they did not meet the zoning regulations in effect at the time of creation in 1969. I further find that that neither parcel is a lot of record as defined in the definitions of the BCZR. Consequently parcel 2 is not eligible for the relief allowed under the special hearing regulations for RC 5. Consequently I will deny the request for special hearing. In regard to the request for variance, I will also deny these requests as moot given the result of the special hearing.

This problem illustrates the hazards of creating lots by deed and not through the County subdivision process which was in place in 1969. I recognize the County allowed property to be subdivided by deed prior to June 11, 1982 when the CRG review process became effective. However creating lots by deed ran the risk the proposed lots would not meet the applicable regulations such as happened here. In 1969 Arlington Contractors had only to apply to the County for the minor subdivision, review would have shown the parcels were too small, a routine variance would have been requested for lot size and like been granted. There was no *Cromwell v Ward* in 1969. But they chose not to go through the trouble and expense to the detriment of the Petitioner's and their successors.

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

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 15th day of March, 2007, that the Petitioners' request in Case No. 07-210- A for

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Variance to permit an individual side yard on the east side of the existing dwelling of thirty-six (36) feet and to permit an individual side yard on the west side of the existing dwelling of thirty nine (39) feet in lieu of the required fifty (50) feet is hereby DENIED as moot; and

IT IS FURTHER ORDERED, the Petitioner's request for Special Hearing request in Case No. 07-211-SPHA filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a lot having a land area of 0.91 acres in lieu of the required 1.5 acres is hereby DENIED; and

IT IS FURTHER ORDERED, the Petitioner's request for Variance in Case No. 07-211-SPHA to permit an individual side yard on the east side of a proposed dwelling of thirty-six (36) feet and to permit an individual side yard on the west side of the existing dwelling of thirty six (36) feet in lieu of the required fifty (50) feet is hereby DENIED; as moot.

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

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BALTIMORE COUNTY
BOARD OF APPEALS

RE: PETITION FOR VARIANCE 602A Church Road (P1); SW/S Church Road, 340' SE Blackforest Road 4th Election & 4th Councilmanic Districts Legal Owners: W. Marcus & Cindi Levinson Petitioner(s)	* * * *	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY 07-210-A

* * * * * * * * * * * * *

RE: PETITION FOR SPECIAL HEARING AND VARIANCE 602A Church Road (P2); SW/S Church Road, 340' SE Blackforest Road 4th Election & 4th Councilmanic Districts Legal Owners: W. Marcus & Cindi Levinson Petitioner(s)	* * * *	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY 07-211-SPHA

* * * * * * * * * * * * *

MEMORANDUM OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

FACTS AND OVERVIEW

The facts in this case are largely undisputed. The difference between the Petitioner's position and people's counsel's position is the application of the law.

The property consists of two adjacent parcels, which were created by deed in 1968. (See PC Exhibit # 1). One parcel is improved with a residence constructed in 1969. The Petitioners have resided there since 2000. The second parcel is unimproved; Petitioners desire to sell it as a residential building site. Both parcels are less than 40,000 sq. ft.

The property is zoned Rural Conservation (R.C. 5). The minimum lot size in the zone is 1.5 acres and the density is calculated at .5 (BCZR 1A04.3 B). Although each parcel has a separate tax assessment number from Maryland State Department of Assessments and Taxation (SDAT), the SDAT tax map does not reflect two separate

parcels. (Pet. Exhibit # 6). Perhaps separate tax numbers were assigned when the two parcels were created by deed, but there was no approved and recorded subdivision plat that would be reflected in the tax map.

Petitioners contend the parcels met the applicable zoning regulations in 1968. At that time, it is undisputed the property was zoned R-40. The provisions of the R-40 zone are contained in the packet of regulations and statutes entered as PC Exhibit # 4 and marked as page 3 on excerpts attached. The R-40 zone requires a minimum lot size of 40,000 sq. ft. or an *average of 40,000 sq. ft for all the lots in the tract.* Petitioner relies on this latter standard although he has failed to produce evidence of the "tract" or the size of lots in the tract in order to make the calculation. Petitioner's surveyor, Bruce Doak, testified that the tract used to measure the lot size is the "John Whitaker" tract, an unrecorded plat created in 1945. The Petitioner and Mr. Doak could not produce a copy of the subdivision tract to qualify for the lot size averaging under the statute. In fact, the John Whitaker plan was never approved by Baltimore County and thus never recorded.

Mr. Doak does not dispute the two parcels were created by Arlington Contractors in a 1968 deed. (PC Exhibit # 4), instead of under the subdivision process in effect in 1968. The property was subsequently transferred to Petitioners' sellers in deeds dated April 2, 1969 (P.C. Ex. #2) and January 23, 1970. (P.C. Ex. #3). The deeds do not purport to create any other lots. Although the SDAT tax map refers to the "Unrec. John Whitaker" there is no evidence of the size of the original lots and whether they could possibly meet the 40,000 sq. ft. averaging threshold. The only conclusion from these transactions is that the subject site (consisting of the two parcels) is the "tract". Each lot is less than 40,000 sq. ft and could not possibly qualify for an average of 40,000 sq. ft. as required in 1968. The 40,000 sq. ft minimum lot size requirement applies.

The likely scenario is that Arlington Contractors "re-subdivided" by deed parts of the original Whitaker lots to create two new parcels, each with a separate driveway. This action was illegal under both the R-40 zone for minimum lot size and under the development regulations, which required Baltimore County approval or sanctioned exemption from the subdivision process.

(See pp. 14-15 of PC Ex #4, attached, which states that the definition of "subdivision" includes "re-subdivision" and is subject to County review. See also 1968 Baltimore County Code, at pp. 17, P.C. #4 attached requiring all subdivision to be approved by the Planning Board. Sec. 22-32, 22-34, 22-37. *Under Sec. 22-33, exceptions to such approval must be certified by the Planning Board chairman or director on the deed itself.* (p.18, P.C. #4 attached).

Mr. Doak admitted that this subdivision approval procedure was in effect when the subject parcels were created in 1968 and that there is no evidence of approval nor is there a certification of exception on the 1968 deed. Even prior to 1968, Planning Commission approval was required for development in Baltimore County. (See Board of County Com'rs v. Oxford Development Co., 121 A.2d 239 (1956) and BCZR 103.1). Subdivision approval was required under all subsequent County statutes as well. (See for instance 1978 Code on pages 27-28 and 1988 Code Supplement on pages 41-42 of PC Exh.#_4 attached).

By all accounts of the evidence, two parcels were created by Arlington Contractors that did not met the minimum lot size under the zoning regulations and without benefit of approval of the planning board, the applicable authority for subdivision approval in Baltimore County at that time.

It should be noted that at no time did the unimproved parcel meet the minimum lot area required by the zone in place on the parcel. (See PC Exhibit # 5 for the zoning history of the site).

The significance of the history of the site and the applicable zoning and subdivision requirements is to determine if the parcels are legal and/or were legally created. **BCZR 102.1**, enacted in 1955, states that no land shall be used or no building erected unless in compliance with zoning regulations. BCZR Section **103.3 (attached)** defers to a recorded subdivision plat on property now zoned R.C. 5 if approved by the Planning Commission or Planning Board in lieu of applying current regulations to a proposed development. If the lots were not legal at creation, they cannot be legal under current law.

The Petitioners here cannot claim the 1969 deed entitles them to erect a second dwelling on the site. First, they are not legitimate non-conforming lots:

> **"A lawful nonconforming use is established if a property owner can demonstrate that before and at the time of adoption of the zoning ordinance, he was using his land in a then-lawful manner for a use which by later legislation became non-permitted."** *Baltimore v. Dembo*, 123 Md. App. 527,531 (1998).

Second, even if Petitioner claims he purchased the site with the understanding he could construct two dwellings, he has no vested right to two lots:

> **"Another aspect of the exercise of the police power is found in zoning ordinances and regulations, where the cases hold that a property owner has no vested rights to a use of his property, permitted at the time of acquisition and later prohibited or restricted unless there is a change in position, made in reliance on the permitted use, *Steuart Petroleum Co. v. Board*, 276 Md. 435, 442-44, 446-47, 347 A.2d 854, 859-60, 861 (1975) and cases there cited.**
>
> **Millison would have use hold that he changed his position when he purchased the tract, relying on the facts that lots in the subdivision could be sold as lots. We regard this argument as illusory, and no more available to him than a purchaser of land zoned for business use, which is rezoned for residential use before it is devoted to business purposes, *Serio v. City of Baltimore*. 208 Md. 545, 119 A.2d 387 (1956); *Quinn v. County Comm'rs*, 20 Md. App. 413, 316 A.2d 535 (1974); *Roberts v. Grant*, 20 Md. App. 247, 315 A.2d 103 (1974)."** *Millison v. Sec. Of Health & Mental H.* 32 Md. App. 165,172 (1976).

The zoning history is also important to qualify, as Petitioner requests, for an exception to the current area and setback requirements that is provided in the 2004 amendment to the R.C. 5 zone. Bill 55-2004 increased the minimum lot size from 1 acre to 1.5 acres and reduced density from .667 to.5 per acre. This means a parcel must be at least 2 acres to support one dwelling. (Likewise, 5 acres would support 2 dwellings, and 10 acres would support 5 dwellings, but the lot sizes could vary as long as none was less than 1 ½ acres). Here, both parcels together are only 1.8 acres. While the combined parcels meet the minimum lot size, both parcels do not support one residence, let alone the 2 requested by Petitioners. (1.8 acres x .5 = .9). Rounding up to calculate density is never permitted and Mr. Doak acknowledged this policy in cross-examination.

Bill 55-2004 provided a limited exception to these requirements if certain standards are met. **BCZR 1A04.3 B. 1. b (1)** provides:

> **"The owner of a single lot of record that is not a subdivision and that is in existence prior to September 2, 2003, but does not meet the minimum acreage requirement, or does not meet the setback requirement of Paragraph 2, may apply for a special hearing under Article 5 to alter the minimum lot size requirement. However, the provisions of Section 1A04.4 may not be varied."**

The language chosen by the County Council is not serendipitous. The use of the words "single" and "lot of record" are not to be glossed over lightly. Single means one. It is defined in Webster's II as follows:

> **"Unaccompanied by another or others: sole . . . consisting of one part or form . . . consisting of one alone . . ."**

Here it means <u>one</u> lot. It is axiomatic that if the Petitioner owns two or more contiguous lots, he is not the owner of a "single" lot but the owner of multiple lots. It follows that the owner of multiple lots in the areas of the County zoned R.C. 5 would have sufficient land to construct a dwelling in compliance, or nearer to compliance, with the current area and setback requirements. An owner cannot treat every contiguous undersized lot as a single lot to construct multiple dwellings. And lots in subdivisions do not qualify for the exception because they are governed by an approved plan as stated in BCZR 103.3 above. Rather, the exception applies to those rare occasions where the owner has held one undeveloped lot that may have met the prior zoning requirements on the site (For instance, R.D.P. under Bill 100-1970, or the original R.C. 5 enacted in 1979, both of which required a 1 acre minimum lot size) but which does not satisfy the current standards. The exception provides the property owner in those instances with a use for the site. But, if a property owner owns two contiguous undersized lots, then the owner can construct one dwelling, which allows for a reasonable use that conforms as nearly as possible to the current regulations. It is not uncommon for an undeveloped parcel to serve as additional yard space for the dwelling. This is particularly applicable in neighborhoods where dwellings are constructed on larger lots, or combined parcels, as the instant case.

Where the property owner has adjoining parcels, the exception does not permit a dwelling on each lot in contravention of current regulations. Here there would be no need to use the word "single" if the exception was intended to include any one of contingent lots in common ownership. Rather, it is intended to alleviate hardship for the isolated lot owner that would otherwise have no reasonable use for the site. Here the adjoining lots were in common ownership by successive owners in the chain of title since 1970, none of whom sought to construct a dwelling on the unimproved lot. Mr. Doak acknowledged the unimproved parcel is viable yard space for the existing dwelling.

Young, Anderson's American Law of Zoning 4th Ed. Section 9.67 discusses exceptions to minimum lot size and how the exception is limited to a single lot; it supports our interpretation of BCZR 1A04.3 B.1.b.(1):

> **"The common exception of lots which were recorded prior to the effective date of a restrictive ordinance is limited to lots which were in single and separate ownership on that date. Under such a provision, an owner is entitled to an exception only if his lot is isolated. If the owner of such a lot owns another lot adjacent to it, he is not entitled to an exception. Rather, he must combine the two lots to form one which will meet, or more closely approximate, the frontage and area requirements of the ordinance."**

The specific language and the spirit and intent of BCZR 1A04.3 B.1.b.(1) do not permit a dwelling on both lots. Our position is supported by the treatises which apply the restriction even if **"the owner had a right to develop the lots separately when they were acquired"** *Young, supra at p. 328.* The Petitioner here has less of a claim than the landowners described in *Young*, where presumably at one time in the past, the lots were conforming. Here, Petitioner never had two valid conforming lots, each with a density unit, because the lots were illegally created by deed and did not meet the minimum size; if the lots are not valid to start with, it would be patently unfair and egregious that they should have the benefit of an exception to the current minimum lot size requirements.

The "exception" is to offer some relief in the interest of fairness when a new law applies. Its purpose is not to create density where none had ever existed.

Likewise, the term "lot of record" has a specific meaning. It is defined in BCZR 101:

> **"LOT OF RECORD -- A parcel of land with boundaries as recorded in the land records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision or other condition thereof. [Bill No. 100-1970]**

The definition goes beyond the mere recording of a deed. Any document can be recorded in the Land Records office as long as the appropriate filing fee is paid. Recording does not make it legal nor confer zoning approval. The important language in the definition is that the parcel, on the date of recordation, must comport with the zoning regulations in effect that **"govern the use, *subdivision*, or other condition thereof."** (emphasis added). In other words a parcel does not become a lot of record by recordation alone; it must comply with zoning and development regulations in effect at the time. If a property owner could effectively divide land merely by surveying proposed lots and recording the deeds in the Land Records Office zoning and subdivision regulations would be meaningless.

In summary, the limited exception to current area and setback requirements in the R.C. 5 zone does not apply to the instant case. The undeveloped parcel is not a single lot owned by the Petitioners – it is one of two contiguous lots. It is not a lot of record because it did not meet the 40,000 sq. ft minimum lot size when created, did not meet the "average of 40,000" since the only lots created by the 1969 deed were less than 40,000, and did not comply with subdivision regulations in effect at the time.

Even if the exception could apply, the Petitioner has the additional burden of providing evidence to meet the special hearing standards. A brief review of the ascertainable standards follows.

SPECIAL HEARING STANDARDS

The aforesaid exception in Bill 152-2004 provides for " **a special hearing under Article 5 [BCZR 500.7] to alter the minimum lot size requirement.**" BCZR 500.7 permits a special hearing "**to determine the existence of any purported nonconforming use . . . or to determine any rights whatsoever of such person in any property in Baltimore County. . .**" Special hearings are appropriate for interpretation and application of statutes to the proposed relief. They are separate from variance petitions filed under BCZR 307 for height and area relief. BCZR 307 sets forth specific standards that Petitioner must meet before a variance can be granted. ("**special circumstances or conditions exist that are peculiar to the land or structure**"). Similarly, cases such as *Cromwell* state specific standards under which a variance can be granted.

In a decision in which the agency must apply a statute, there must be specific ascertainable standards that establish a framework within which the discretion of an administrative agency must operate. If there are no guiding standards, the law to be applied is invalid. In *County Council v. Investors Funding*, 270 Md. 403 (1972), the Court of Appeals reviewed an administrative agency's authority to impose a civil penalty in a landlord/tenant dispute. The Court stated at pages 441-442:

> **"The power vested in the Commission by § 93A-9(c) to enforce the provisions of the Act by imposing a civil penalty not exceeding $1,000 "for the violation of any provision of this Chapter" is far more elastic than its power to award money damages to a landlord or tenant for actual loss suffered by reason of the Commission's finding of a defective tenancy. Indeed, it is readily apparent that the Commission has unrestricted, unbridled discretion in fixing the amount of the penalty, within broad limits, up to $1,000 without regard to the nature or gravity of**

the violation. While we conclude that the authority to impose a civil monetary penalty is not a power beyond constitutional delegation to an administrative agency, we think the discretion vested in the Commission to fix the amount up to $1,000, for any violation of the Act, in the total absence of any legislative safeguards or standards to guide it in exercising its discretion, constitutes an invalid delegation of legislative powers and otherwise violates due process of law requirements. See *Theatrical Corp. v. Brennan*, 180 Md. 377, 24 A.2d 911 (1942). . . We hold here that because of the complete lack of any legislative safeguards or standards, the grant of unlimited discretion to the Commission to fix civil penalties in any amount is up to $1,000 is illegal . . ."

Here, BCZR 1A04.3 B.1.b.(1) requires a special hearing to determine if a dwelling can be built on a lot that does not meet the minimum lot size in the R.C. 5 zone. What standards should the CBA apply? No standards are enumerated in the statute itself. But that is not fatal if the CBA applies specific and rational standards. Also, BCZR 500.7 authorizes a special hearing to determine **"any rights whatsoever in . . . any property"** but does not establish standards to guide the administrative agency. Our position is that the CBA can address the special hearing if it articulates and applies specific ascertainable standards under general zoning law.

Here, the special hearing is requested to deviate from area and setback standards, which is tantamount to variance relief. Moreover, in his testimony, Mr. Doak described the relief as a request for variances.

VARIANCE STANDARDS APPLY

Clearly, variance relief is more appropriate to alter area requirements. BCZR 307 refers to "the power to grant variances from height and area regulations." Young, *Anderson's American Law of Zoning,* Section 20.48 states: **"An area variance authorizes deviation from restrictions upon the construction and placement of buildings and structures which are employed to house or otherwise serve permitted**

uses . . . An area variance has no relationship to a change of use. It is primarily a grant to erect, alter, or use a structure for a permitted use in a manner other than that that prescribed by the restrictions of the zoning ordinance . . . More specifically, area variances include those relating to setback, yard, lot-area, lot-coverage, floor-area, frontage, height, and similar restrictions."

Young, Section 20.07 further states: "**An area variance is one which does not involve a use prohibited by the zoning ordinance. Area variances involve matters such as . . . lot-size restrictions, density regulations, . . .**" *Young* differentiates an area variance from a "use" variance which is defined as "**. . . one which permits a use other than that prescribed by the zoning ordinance, whereas an "area variance has no relation to change of use. It is primarily a grant to erect, alter or use a structure for a permitted use in a manner other than that prescribed by the ordinance.**" Baltimore County does not recognize use variances. See Anderson v. Board of Appeals, 22 Md. App. 28,38 (1974). But even where a use variance is recognized, *Young* notes the burden of proof is akin to an area variance: " **Commenting on the practical significance of the distinction, the court said that use variances are customarily concerned with "hardship" while area variances are customarily concerned with "practical difficulties."** (citations omitted).

BCZR 307.1 states, in pertinent part:

> **"The Zoning Commissioner of Baltimore County, and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, and from sign regulations only in cases where special circumstances exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. -------- Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety, and welfare. They shall have no power to grant any other variances."**

THE SITE IS NOT UNIQUE

Petitioners have the burden to prove uniqueness as that term is defined and applied under the variance statute, BCZR 307, and the seminal *Cromwell v. Ward.* In *Cromwell* at 710, the Court stated:

> **"In the zoning context the 'unique' aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property.**
>
> **'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls."**

There is no evidence of uniqueness here. The mere fact that it is substandard is not a unique circumstance. Judge Cathell in *Cromwell* at 717 cited approvingly Sibley v. Inhabitants of the Town of Wells, 462 A2d 27, 30-31 (1983):

> **"[T]he need for a variance [must be] due to the unique circumstances of the property and not to the general conditions in the neighborhood; . . . [T]he hardship [must] not [be] the result of action taken by the appellant or a prior owner. . . However, the mere fact that the lot is substandard is not a unique circumstance; all the undeveloped lots in that neighborhood are of substandard size." (emphasis supplied)**

Nor can a variance be granted under the guise of uniqueness if the parcel was created illegally or failed to meet the area regulations for the zone at the time. Likewise, the fact that the parcel has been rezoned and does not meet current regulations is not a unique condition under Cromwell. The standard is that **". . . the uniqueness of the property caused the ordinance to have a different impact on it [subject property] than on adjoining property. . ."** Cromwell at 721. If rezoning qualified as uniqueness, there would be no need for the grandfathering "exception" that is found in Bill 152-2004 and

codified in the R.C. 5 legislation. Rather, property owners would automatically meet the uniqueness test by the mere fact that the area has been rezoned. Such a policy would serve to undermine the authority of the County Council to enact zoning from time to time. Instead the first zoning of the site would carry such a disproportionate weight that it would effectively prevent subsequent Baltimore County Councils from exercising their Charter authority to rezone a site or to enact new zones.

Judge Cathell also pointed out that uniqueness does not relate to the owner's circumstances:

> **"[I]t is not uniqueness of the plight of the owner, but uniqueness of the land causing the plight which is the criterion . . . Thus, a landowner was not entitled to a variance to relieve his land from a restriction which applied equally to all lots of similar size."** Cromwell at 719-720, (citations omitted)

> **"The burden of proof is on the applicant to establish that his land is uniquely affected resulting in unnecessary hardship."** *Cromwell* at 721 (citations omitted).

The Petitioner here failed to meet his burden. The first inquiry is whether the property is peculiar or "unique." If evidence of uniqueness is insufficient or unpersuasive, the inquiry ends there. Cromwell v. Ward 102 Md. App. 691 (1995); Umerley v. People's Counsel 108 Md.App. 497 (1996); Riffin v. People's Counsel 137 Md. App. 90 (2001). This itself would justify a denial of the special hearing and the CBA need go no further. If the uniqueness threshold is passed, the further question is whether the unique condition results in "practical difficulty." McLean v. Soley 270 Md. 208, 213-15 (1973).

THERE IS NO PRACTICAL DIFFICULTY

In McLean, 270 Md. 208, 214-15 (1973), the Court established the criteria to determine "practical difficulty":

> "1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would

unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured."

These criteria are interrelated and must be analyzed together.

There is no evidence that the unimproved parcel has no use. Even Mr. Doak acknowledged the unimproved lot could be yard space for the dwelling. The combined 1.8acre lot would be comparable in size to other lots in the area and would presumably command a higher price than a lot half its size. *Young, supra at* 20.02 states that **"a variance is designed as an escape hatch from the literal terms of the ordinance which, if strictly applied, would deny a property owner all beneficial use of his land and thus amount to confiscation."**

There is no evidence that compliance with the current law unreasonably prevents or hinders Petitioner from using his property.

Practical difficulty does not mean the owner cannot use it for a preferred use or the most profitable use. **"Mere fact that variance would make property more profitable is not a sufficient ground to justify granting of variance from setback requirements of Baltimore Zoning Ordinance."** *Easter v. Mayor and City Council of Baltimore*, 195 Md. 395 (1950). **"Fact that variance of zoning ordinance will make realty more**

profitable is not sufficient ground to justify variance." *Gleason v. Keswick Imp. Ass'n,* 197 Md. 46 (1951).

Zoning principles have long rejected variance relief based on convenience and profitability for the property owner. "Practical difficulty" does not mean:

> (i) Increase profit for the homeowner: **"The courts have consistently held that a variance may not be granted solely on the ground that such relief will enable the applicant to make a greater profit."** *Young, Anderson's American Law of Zoning 4th Edition,* Section 20.23.
>
> (ii) inconvenience to the applicant if the variance is not granted - **" . . . an applicant cannot qualify for an area variance simply by showing that he will be inconvenienced if relief is not granted."** *Young, supra* at Section 20.54.
>
> (iii) preferences of the property owner: **"To warrant the granting of an area variance there must be something more than a showing that a variance would permit the applicant to select a preferable alternative."** *Young, supra.*

As the case law has consistently demonstrated, personal preferences are no substitute for the legal standards required to demonstrate practical difficulty.

. In citing prior variance cases in *Cromwell at 707,* Judge Cathell quoted:

> "[statutes] **. . . have been held not to authorize a granting for the mere convenience to the owner but to require a showing of urgent necessity, hardship peculiar to the particular property . . ."** (citations omitted).

See also *Carney v. City of Baltimore,* 93 A.2d 74 (1952):

> **"A need which will justify an exception to a zoning ordinance must be substantial and urgent and not merely for the convenience of the applicant."**

Easter v. Mayor & City Council of Baltimore, 195 Md. 395 (1950):

> **"Mere fact that variance would make property more profitable is not a sufficient ground to granting of variance. . ."**

Evans v. Shore Communication, 112 Md. App. 284 (1996):

> **"In determining whether to grant variance, first consideration cannot be fact that variance is desired and difficulties will exist if it is not granted."**

Finally, the burden of proof is on the Petitioner. *Citrano v. North, 123 Md. App. 234(1998):*

> **"Applicant for variance bears the burden of overcoming the presumption that the proposed use is unsuitable; . . ."**

Special Hearing Conflicts with Spirit/ Intent of Zoning & Subdivision Regulations

It is self-evident that if the CBA finds the lots never conformed to the applicable zoning regulations and were created in contravention of the subdivision regulations, approval of the special hearing would subvert the spirit and intent of the R.C. 5 zone, including the amendments in Bill 55-2004, as well as BCZR 102.1 and 102.3. It is fundamental to zoning that development of land must comply with the applicable regulations. The standards in 1969 were minimal but cannot be ignored. Unfortunately, as DZC Murphy explained, the current owners have no greater right to relief than Arlington Contractors who were subject to the R-40 zone standards and the subdivision process in 1969. There is a temptation to let sympathetic arguments override application of the law. But at least here, the Petitioners have a viable use for the undeveloped parcel as part of their homestead. The combined lots of 1.8 acres would not be out of character with others in the neighborhood. In any event, there was no evidence presented by Petitioner or Mr. Doak to meet the tests of uniqueness and practical difficulty.

By way of perspective, this Board has rejected division by deed in lieu of the required subdivision process in other matters, most recently, Case 07-466-SPH, involving property at 4034 Bay Drive.

Conflict With Spirit and Intent Prohibits Special Exception Relief

It is unclear from the hearing if the Petitioner is applying variance or special exception standards to the special hearing relief under BCZR 1A04.3 B. 1. b., the exception for undersized lots in the R.C. 5 zone stated on page 5 above. As we have indicated, variance relief is appropriate for deviations from lot size and setbacks. On the contrary, special exception law applies to a site's proposed use.

If the CBA applies special exception standards under BCZR 502.1, the proposed relief is "inconsistent with the purposes of the property's zoning classification" and "inconsistent with the spirit and intent of these Zoning Regulations;" because the lot was never legal and never legally created under the application regulations and statutes. There was no evidence the proposal is not "detrimental to the . . . general welfare of the community" or does not "tend to overcrowd land . . ." It is the burden of Petitioner to prove compliance with the special exception standards.

Relief Requested for Improved and Unimproved Parcels

This Memorandum addresses specifically the relief requested in Case No. 211-SPHA, the unimproved parcel. Separately, Case 07-210-A. refers to the improved parcel where the existing dwelling was constructed on a lot that did not comply with the minimum lot size under the R-40 zoning regulations, but appeared to meet the setback standards. When Arlington Contractors' buyers acquired the unimproved parcel in 1970 that is the subject of Case 211-SPHA, the combined acreage (1.8 acres) did meet the 40,000 sq. ft minimum lot size and served to "legitimize", *de facto,* the existing dwelling, although the subdivision procedure was not followed. People's Counsel does not oppose the existing dwelling on the combined lots. But it should be noted that if the CBA permits a second dwelling on the unimproved parcel in Case No. 211-SPHA, the side yard setbacks for the existing dwelling become deficient under the current R.C. 5 zone, thereby compounding noncompliance.

Summary

The request to construct a residence on an undersized lot in Case # 07-211 SPHA should be denied for the following reasons:

(i) The parcel is not a legal lot of record as defined in BCZR 101 and does not qualify for the exception under BCZR 1A04.3 B. 1. b. in the R.C. 5 zone.

(ii) The Petitioner does not own just a single lot as the R.C. 5 regulation requires, but owns two lots.

(iii) Even if the R.C. 5 exception applies, the parcel does not satisfy the variance standards – there was no evidence of uniqueness, and because it has a use in conjunction with the existing dwelling, there is no practical difficulty.

(iv) Should the CBA apply the special exception standards instead of variance standards to the exception under the R.C. 5 zone, the Petitioners have failed to provide evidence that the requested relief is "not inconsistent with the spirit and intent of the zoning regulations and the property's zoning regulation" and failed to provide evidence that the produced second dwelling is not "detrimental to . . . the general welfare of the locality involved " all of which is zoned R.C. 5.

(v) The parcel has never been legal under its prior zoning classifications nor legally created in 1968 in compliance with the applicable subdivision regulations.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of June, 2008, a copy of the foregoing Memorandum of the People's Counsel for Baltimore County was mailed to Lawrence M. Hammond, Esquire, P.O. Box 569, Reisterstown, MD 21136, Attorney for Petitioner(s).

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel

BALTIMORE COUNTY

ZONING REGULATIONS

ADOPTED BY

COUNTY COMMISSIONERS

OF

BALTIMORE COUNTY

March 30, 1955, in accordance with Title 30, Section 532 (c) of the Code of Public Local Laws of Baltimore County (1955 Edition).

1955

Michael J. Birmingham
President

Robert B. Hamill
Augustine J. Muller
County Commissioners of Baltimore County

Francis T. Peach
County Solicitor

George M. Berry
Deputy Solicitor

Wilsie H. Adams
Zoning Commissioner

to public highways, alleys, rear lot lines, railroad rights-of-way or if carrying less than 35,000 volts.

c. Conduits, cables; gas, sewer, storm drain, and water mains—all located underground.

d. Railroad.

200.12—Farming, as defined in Section 101 and as conditioned in Section 404.

200.13—Signs in accordance with the provisions of Section 413.

200.14—Excavations, uncontrolled.

200.15—Special Exceptions: The following uses when permitted as Special Exceptions (see Sections 270 and 502):

Airport;
Boarding or rooming houses;
Boat yard and/or marine railway;
Cemetery (see Section 401);
Conservatory, music and the arts;
Convalescent home;
Conversion of a dwelling into a tea room or restaurant as conditioned in Section 402;
Excavations, controlled (see Section 403);
Funeral establishment;
Golf driving range, miniature golf, and baseball batting range;
Hospital, Class B (see Section 407);
Kennel, but not on a lot of less than 3 acres, and not closer than 50 feet to a property line;
Laboratory;
Poultry, commercial killing of, but only on a farm (see Section 404);
Private colleges, nursery or dancing schools, dormitories, and fraternity and sorority houses, but excluding business and trade schools;
Public utility uses other than those noted in Section 200.11 (see Section 411);
Race track, commercial;
Radio studio;
Riding stable, commercial;
Sanitary landfill (see Section 412);
Shooting range;
Television studio;

Theatre, drive-in;
Tourist home;
Trailer park;
Volunteer fire company;
Wireless transmitting and receiving structure.

Section 201—HEIGHT REGULATIONS

No building shall exceed a height of 35 feet or 3 stories, except as provided in ARTICLE 3.

Section 202—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

202.1—Lot Area and Width—Each principal building hereafter erected shall be located on a lot having an area of not less than 40,000 square feet and a width at the front building line of not less than 150 feet, except that for two or more lots in the same ownership, and in the same tract, a minimum lot area of 30,000 square feet is permitted if the average of all the lot sizes in the same ownership and in the same tract equals 40,000 square feet or more. A wedge shaped lot at the end of a cul-de-sac street may have a width at the front building line of not less than 100 feet (see Section 304).

202.2—Front Yard—For dwellings, the front building line shall be not less than 50 feet from the front lot line and not less than 75 feet from the center line of the street; for other principal buildings—70 feet from the front lot line and not less than 95 feet from the center line of the street.

202.3—Side Yards—For dwellings, 20 feet wide for one side yard and not less than 50 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 50 feet from the side lot line and not less than 75 feet from the center line of the street; for other principal buildings—40 feet wide, except that for a corner lot the building line along the side street shall be not less than 65 feet from the side lot line and not less than 90 feet from the center line of the street.

202.4—Rear Yard—50 feet deep.

BALTIMORE COUNTY SCHE 1996

Subdivision means the division of a lot, tract or parcel of land into two or more lots, sites or other divisions of land for the purpose, whether immediate or future, of sale or building development; except, that the following divisions shall not be considered subdivisions within the meaning of this title, provided, that no new streets or roads are involved: Division of land for agricultural purposes where the resulting parcels are three acres or larger in size, divisions of property by testamentary or intestate provisions or division of property upon court order. Subdivision also includes resubdivision, and where appropriate to the context, relates to the process of subdividing or to the lands or territory divided.

Zoning map means a chart or map, or series of charts or maps, which sets forth the currently permissible uses to which privately owned land in the county may be put, and which has been adopted by ordinance of the county council in the manner hereinafter in this title provided. (Bill No. 80, 1960; No. 48, 1963, sec. 1.)

Sec. 22-2. Office of planning and zoning.

The office of planning and zoning shall consist of the director of planning, the zoning commissioner and the subordinate officers, agents and employees under their authority. The office of planning and zoning shall be administered by the director of planning. (Bill No. 80, 1960.)

Sec. 22-3. Planning board—Composition; voting and nonvoting members.

The planning board shall consist of sixteen members, of whom twelve shall be lay members holding no other salaried position in the county government, and the remaining four members shall be the county executive, the county superintendent of schools, the director of public works and the zoning commissioner, all of whom shall serve ex officio during their official tenures in such offices. The ex officio members

Sec. 22-31. Injunctive proceedings.[3]

In addition to all other remedies provided by law, the zoning commissioner, or any person whose property is affected by any violation, including abutting and adjacent property owners, whether specially damaged or not, may maintain an action in, the circuit court for the county for an injunction enjoining the erection, construction, reconstruction, alteration, repair or use of buildings, structures and land in violation of zoning regulations and restrictions adopted pursuant to this title. (Bill No. 80, 1960.)

Article IV. Subdivision Control Generally.[4]

Sec. 22-32. Subdivision regulations.

The planning board from time to time shall prepare and submit to the county council for its approval or disapproval recommendations for the amendment or supplement to regulations governing the subdivision of land throughout the county (codified in article V of this title), including but not limited to standards for approving the design of subdivisions, requirements for the submission of subdivision plats and the procedure to be followed by subdividers. Such regulations may provide for the proper arrangement of streets, in relation to other existing planned streets and to the master plan, and local open space tracts, for adequate and convenient open spaces for traffic, recreation, utilities, access of firefighting apparatus, light and air, and for the avoidance of congestion of population, including minimum widths and areas of lots. Such minimums shall coincide with such provisions in the Zoning Regulations for the county.

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[3] Similar section of 1955 County Code cited in Commissioners of Baltimore County v. Oxford Company, 209 Md. 373, 121 A. 2d 239 (1956).

[4] There is nothing in this article requiring the planning commission tentatively to approve a subdivision plan. Board of County Commissioners of Baltimore County v. Oxford Development Company, 209 Md. 373, 121 A. 2d 239 (1956).

These subdivision regulations may include provisions as to the extent to which streets and other ways, water, sewer and drain pipes, local open space tracts and other public facilities shall be provided for, as a condition precedent to approval of the plat. Such regulations may provide for tentative approval of the plat, but any such tentative approval shall be revocable. The subdivision regulations shall be adopted, with amendments of any, and may from time to time thereafter be amended by the county council by ordinance after public hearing. Copies of the subdivision regulations shall be made available to the public, and a reasonable charge therefor may be made. (Bill No. 80, 1960; No. 48, 1963, sec. 2.)

Sec. 22-33. Exemption of governmental approval of subdivision regulations.

Any such subdivision regulations may exempt from the requirements of governmental approval, subdivisions wherein the number of new lots is less than a designated number, or plats that do not involve new streets, or such other plats or subdivisions as such ordinance shall designate. In all cases involving such exempted subdivisions, the planning board chairman, or its director, shall certify the exemption on the plat, deed or instrument to be filed with the clerk of the circuit court for recording. (Bill No. 80, 1960.)

Sec. 22-34. Requirements for subdivisions and plats generally.

(a) In acting upon subdivisions, the planning board shall require, among other conditions in the public interest, that the tract shall be adequately drained, and the streets shall be of sufficient width and suitable grade and suitably located to accommodate the prospective traffic, to provide access for firefighting equipment to buildings and to be coordinated so as to comprise a convenient system, relating properly to the existing street system. Where the planning board after hearing has adopted portions of the master plan with proposals regarding the street system within the proposed subdivision,

who shall violate such regulations, restrictions or final order shall be deemed guilty of a separate offense for every day that such violation shall continue. (Bill No. 80, 1960; Balto. Co. Code, 1968, § 22-30)

Sec. 22-36. Injunctive proceedings.

In addition to all other remedies provided by law, the zoning commissioner, or any person whose property is affected by any violation, including abutting and adjacent property owners, whether specially damaged or not, may maintain an action in, the circuit court for the county for an injunction enjoining the erection, construction, reconstruction, alteration, repair or use of buildings, structures and land in violation of zoning regulations and restrictions adopted pursuant to this title. (Bill No. 80, 1960; Balto. Co. Code, 1968, § 22-31)

Annotation—Similar section of 1955 County Code cited in Commissioners of Baltimore County v. Oxford Company, 209 Md. 373, 121 A. 2d 239 (1956).

ARTICLE IV. SUBDIVISION CONTROL GENERALLY*

Sec. 22-37. Subdivision regulations.

The planning board from time to time shall prepare and submit to the county council for its approval or disapproval recommendations for the amendment or supplement to regulations governing the subdivision of land throughout the county (codified in article V of this title), including but not limited to standards for approving the design of subdivisions, requirements for the submission of subdivision plats and the procedure to be followed by subdividers. Such regulations may provide for the proper arrangement of streets, in relation to other existing planned streets and to the master plan, and local open space tracts, for adequate and convenient open spaces for traffic, recreation, utilities, access of fire-fighting apparatus, light and air, and for the avoidance of congestion of population, including minimum widths and areas of lots. Such minimums shall coincide with such provisions in the zoning regulations for the county.

These subdivision regulations may include provisions as to the extent to which streets and other ways, water, sewer and drain pipes, local open space tracts and other public facilities shall be provided for, as a condition precedent to approval of the plat. Such regulations may provide for tentative approval of the plat, but any such tentative approval shall

*State law reference—Requirements for recording plats of subdivisions, §§ 3-108, 3-304, unnumbered article Real Property, Anno. Code of Md., 1974 Volume.

Annotation—There is nothing in this article requiring the planning commission tentatively to approve a subdivision plan. Board of County Commissioners of Baltimore County v. Oxford Development Company, 209 Md. 373, 121 A. 2d 239 (1956).

be revocable. The subdivision regulations shall be adopted, with amendments of any, and may from time to time thereafter be amended by the county council by ordinance after public hearing. Copies of the subdivision regulations shall be made available to the public, and a reasonable charge therefor may be made. (Bill No. 80, 1960; Bill No. 48, 1963, § 2; Balto. Co. Code, 1968, § 22-32)

Sec. 22-38. Exemption of governmental approval of subdivision regulations.

Any such subdivision regulations may exempt from the requirements of governmental approval, subdivisions wherein the number of new lots is less than a designated number, or plats that do not involve new streets, or such other plats or subdivisions as such ordinance shall designate. In all cases involving such exempted subdivisions, the planning board chairman, or its director, shall certify the exemption on the plat, deed or instrument to be filed with the clerk of the circuit court for recording. (Bill No. 80, 1960; Balto. Co. Code, 1968, § 22-23)

Sec. 22-39. Requirements for subdivisions and plats generally.

(a) In acting upon subdivisions, the planning board shall require, among other conditions in the public interest, that the tract shall be adequately drained, and the streets shall be of sufficient width and suitable grade and suitably located to accommodate the prospective traffic, to provide access for firefighting equipment to buildings and to be coordinated so as to comprise a convenient system, relating properly to the existing street system. Where the planning board after hearing has adopted portions of the master plan with proposals regarding the street system within the proposed subdivision, the board may require that the streets shown conform in design and in width to the proposals shown on the master plan. No street shall be less than fifty (50) feet within right of way lines and shall be of such width as may be required in the subdivision regulations or as shown on the master plan for the county.

(b) The planning board shall further require that all lots shown on the plats shall be adaptable for the intended purposes without danger to health or peril from flood, fire erosion or other menace.

(c) Before final approval of subdivisions the director of public works may require, in accordance with the subdivision regulations, the execution of a public works agreement for any or all of the following improvements it may deem necessary or appropriate: Street grading, pavement, gutters, curbs, sidewalks, shade trees, surveyor's monuments, water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, local open space tracts and such other sub-

ants that are discharged from structures or conveyances or that have run off from surrounding lands;

2. Conserve fish, wildlife, and plant habitat; and

3. Are consistent with established land use policies for development in the Chesapeake Bay critical area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

(c) Comments and conditions pursuant to subsection (b) above shall be considered by the hearing officer and become a permanent part of the plan file. If no comments or conditions are received by the hearing officer, the plan shall be considered to be in compliance with applicable county regulations.

(d) Notice of the date, time and place of the hearing officer's hearing shall be conspicuously posted at the county's direction on the lot, parcel or tract which is the subject of the plan at least twenty (20) working days prior to the hearing. A plan may not be considered by the hearing officer unless the subject property has been posted in accordance with this section.

(e) Prior to the initial review of the development plan, representatives of the department of public works and office of planning and zoning shall visit the site.

(Code 1978, § 22-57; Bill No. 18, 1990, § 2; Bill No. 1, 1992, § 2)

Sec. 26-206. Development plan approval.

(a) Final action on a plan shall be after a public quasi-judicial hearing before the hearing officer. The hearing shall be conducted on any comment or proposed or requested condition which remains unresolved. If no comment or condition remains unresolved after the initial phase of the hearing, which may be informal in nature, the hearing officer shall make such a finding for the record, shall enter the plan into the record, may require such additional testimony or evidence as he deems necessary, and shall grant approval pursuant to the requirements of this section. If a comment or condition remains unresolved, the hearing officer shall proceed to take testimony and receive evidence and render a decision pursuant to the requirements of this section.

(b) The hearing officer shall grant approval of a development plan that complies with these development regulations and applicable policies, rules and regulations promulgated pursuant to section 2-416 et seq. of the Code, provided that the final approval of a plan shall be subject to all appropriate standards, rules, regulations, conditions, and safeguards set forth therein. All final decisions of the hearing officer with respect to such matters shall be subject to appeal to the county board of appeals as provided in section 26-209 below.

(c) The hearing shall be scheduled as required by section 26-204(c) above.

(d) For a period of at least fifteen (15) days prior to the time of such hearing, notice of the date, time, and place shall be conspicuously posted at the county's direction on the lot, parcel, or tract which is the subject of the plan.

(e) The conduct and operation of such hearings shall be in conformance with rule IV of the zoning commissioner's rules which shall be adopted by reference.

(f) The hearing officer shall have the power to administer oaths and may require witnesses to testify under oath.

(g) The hearing officer shall, upon any final decision on a plan, file an opinion and include therein the basis of the decision.

(h) The department of permits and development management and the hearing officer shall cause to be maintained complete files with respect to all hearing proceedings over which the hearing officer presides. The file with respect to said hearing shall include at least the following documents:

(1) The plan;

(2) Reports or comments or proposed or requested conditions from county agencies,

the community input meeting, community groups, or any party or private person relating to the plan;

(3) Exhibits introduced in evidence at the hearing;

(4) The final decision rendered by the hearing officer;

(5) Sections 26-130 and 26-131 of this Code shall be applicable.

(i) The final decision of the hearing officer shall be issued within fifteen (15) days after the final hearing held on the plan. If no decision is rendered within this fifteen-day requirement, the plan shall be deemed approved as submitted by the applicant.

(j) If no decision is rendered, the appeal period begins from the fifteenth day after the final hearing is held. However, the hearing officer shall immediately notify the parties that the plan is deemed approved and that the appeal period has begun.

(k) Copies of a plan approved by the hearing officer shall be forwarded to the directors of public works, planning and zoning, and environmental protection and resource management within five (5) working days after the date of the hearing officer's decision granting approval of the plan as submitted or as revised within the five-day period in compliance with the hearing officer's requirements for any condition imposed upon the plan.

(l) All subsequent detailed development plans such as the final grading and sediment control plan, stormwater management plan, landscape plan, and record plat shall be sealed and certified as being in accordance with the approved development plan.

(m) Copies of any portion of the plan file shall be available to any person upon request and payment of any necessary fees.

(n) The proceedings of any hearing shall be recorded. Any person may have access to the recorded proceedings upon request and upon payment of any fees or costs involved.

(o) In approving a plan, the hearing officer may impose such conditions, as may be deemed necessary or advisable based upon such factual findings as may be supported by evidence for the protection of surrounding and neighboring properties. Such conditions may only be imposed if:

(1) The condition is based upon a comment which was raised or a condition which was proposed or requested by a party;

(2) Without the condition there will be an adverse impact on the health, safety or welfare of the community;

(3) The condition will alleviate the adverse impact; and

(4) The condition does not reduce by more than twenty (20) percent the number of dwelling units proposed by a residential development plan in a DR 5.5., DR 10.5, or DR 16 zone, and no more than twenty (20) percent of the square footage proposed by a nonresidential development plan. This subsection is not applicable to a PUD development plan.

The owners, lessees or tenants of the property for which a plan is approved, if required by the hearing officer, shall enter into an agreement in writing with the hearing officer stipulating the conditions governing such final plan approval, the same to be recorded among the land records of the county. The cost of such agreement and the cost of recording thereof shall be borne by the party requesting such approval. When so recorded, such agreement shall govern the exercise of the development plan as approved, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, assignment or other transfer.

(p) No permit may be issued and no plat recorded in connection with the development plan for a period of thirty (30) days after the final decision of the hearing officer under section 26-206 in a case involving an unresolved comment or condition.

(q) In the review of PUDs the hearing officer may:

(1) Approve the authorization plan as submitted by the planning board;

originally submitted to the (then) Baltimore County Planning Commission (now Planning Board) and approved or tentatively approved (including any approval made subject to any condition or conditions) under the then existing official procedure in Baltimore County, prior to the adoption of these regulations.[2] The Zoning Regulations applicable to any such development, subdivision or parcel of land as aforesaid shall be the Zoning Regulations in effect at the time such plan, as aforesaid, was originally submitted to the Baltimore County Planning Commission.

Provided further, however, that the use and development of land in M.L. Zones shall not be affected by the foregoing provision, but development is permitted in accordance with any preliminary development plan approved by the Office of Planning before the effective date of this further proviso, even though such development may be counter to then-current regulations for M.L. Zones, if, on the fifth anniversary of such effective date, construction either is completed or is substantially commenced and diligently being pursued to completion; otherwise, the regulations generally in effect at the time such use or development is to be established shall control.[3] **[Resolution, November 21, 1956; Bill No. 100-1970]**

103.2 When any public use ceases or when title of unzoned public land passes into private ownership, public land or buildings shall not be used for private purposes until they shall have been zoned in conformance with these regulations.

103.3 In an R.C.2, R.C.3, R.C.4 or R.C.5 Zone, contrary provisions of Subsection 103.1 and any other contrary provisions of or pursuant to these regulations notwithstanding, in the case of property covered by a recorded subdivision plat which was approved by the Baltimore County Planning Commission or Board before the effective date of this subsection, and which remains in effect, buildings may be constructed, residential densities and lot lines may be established, and yards and other open areas may be laid out in accordance with that plan, subject to any conditions of the approval.

Where such a plan has been so approved but does not indicate densities or the situations of buildings or yards or other open spaces, these may be established or situated only in accordance with the standards as prescribed and in force at the time of the lot recordation. **[Bill No. 98-1975]**

103.4 If a subdivision plan or plat approval application to any lot, other than a lot in a planned industrial park, has lapsed under the provisions of § 32-4-273 of the Baltimore County Code, development of that lot in contravention of the use, height, area or other land use or development standards of these regulations may not be undertaken pursuant to the following provisions of these Zoning Regulations: **[Bill Nos. 61-1979; 137-2004]**

---

2 **Editor's Note: Refers to the Baltimore County Zoning Regulations (BCZR) adopted March 30, 1955.**

3 **Editor's Note: M.L. Grandfather Clause. This provision (second paragraph) was added by Bill No. 100-1970, which provided (Section 20) that "any amendments herein...shall be effective only upon the adoption by the County Council of any new Zoning Maps on or before March 31, 1971." The subsequent Zoning Maps were passed by the County Council on March 24, 1971. However, the bill also states (Section 21) that "this act shall take effect forty-five days after its enactment." The bill was enacted on August 5, 1970, and the forty-fifth day thereafter was September 19, 1970.**

CASE #: 07-210-A

IN THE MATTER OF: W. MARCUS AND CINDI LYNN LEVINSON – Legal Owners /Petitioners 602A Church Road 4th E; 4th C

VAR – To permit individual side yard on E/s of existing dwelling of 36' ilo required 50'; and to permit individual side yard on W/s of existing dwelling of 39' ilo required 50'.

AND

CASE #: 07-211-A

IN THE MATTER OF: W. MARCUS AND CINDI LYNN LEVINSON – Legal Owners /Petitioners 602A Church Road 4th E; 4th C

SPH – To permit lot having land area of 0.91 acre ilo required 1.5 acres;
VAR – To permit individual side yard on E/s of proposed dwelling of 36' ilo required 50'; and to permit individual side yard on W/s of proposed dwelling of 36' ilo required 50'.

3/15/2007 – D.Z.C.'s Decision in which requested special hearing relief was DENIED; and requested variance relief DENIED as moot.

1/02/2008 - Notice of Assignment sent to following; assigned for hearing on Wednesday, March 12, 2008 at 10 a.m.:

Lawrence M. Hammond, Esquire
W. Marcus and Cindi Lynn Levinson
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

3/11/08 – Request for Postponement filed by Lawrence Hammond, Esquire, counsel for Petitioners due to death in his family and necessity to travel to Louisiana for services, etc.
-- Spoke with Ms. Demilio this a.m.; no objection to the granting of this postponement.
-- Notice of Postponement and Reassignment sent to parties; case reassigned to Wednesday, May 14, 2008 at 10:00 a.m.

5/14/08 – Board convened for hearing (Crizer, Wescott, Witt); concluded hearing this date; memos due 6/13/08; public deliberation to be scheduled.

5/15/08 – Notice of Deliberation sent to parties; assigned for Thursday, July 10, 2008 at 9:30 am FYI copy to 7-3-6.

6/16/08 - Memorandum of People's Counsel for Baltimore County filed by C. Demilio on 6/13/08; no brief was filed by Mr. Hammond up to the close of business on 6/13/08.
-- Copy of PC Memo sent to 7-3-6 this date with notation that a closing brief was not filed by Mr. Hammond.

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

August 12, 2008

Lawrence M. Hammond, Esquire
HAMMOND AND HAMMOND
465 Main Street
PO Box 569
Reisterstown, MD 21136-4569

RE: *In the Matter of: W. Marcus and Cindi Lynn Levinson - Petitioners*
Case No. 07-210-A and Case No. 07-211-SPHA

Dear Mr. Hammond:

Enclosed please find a copy of the Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matters.

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*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen Bianco/sc

Kathleen C. Bianco
Administrator

Enclosure

c: W. Marcus and Cindi Lynn Levinson
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

IN THE MATTER OF THE APPLICATION OF W. MARCUS AND CINDI LYNN LEVINSON LEGAL OWNERS FOR A SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE SW/S OF CHURCH RD, 340' SE OF BLACK FOREST RD (602A CHURCH ROAD) 4TH ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT	* * * * * * * * *	BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 07-210-A AND CASE NO. 07-211-SPHA

* * * * * * *

OPINION

This matter comes before the Board of Appeals for Baltimore County as an appeal of the Deputy Zoning Commissioner's (DZC) Order dated March 15, 2007 denying Petitioners' request in Case No. 07-210-A for a variance to permit an individual side yard of thirty-six (36) feet on the east side of the existing dwelling and an individual side yard of thirty-nine (39) feet on the west side of the existing dwelling in lieu of the required fifty (50) feet. In addition, the DZC denied Petitioners' request for Special Hearing in case No. 07-211-SPHA filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (BCZR) to permit a lot having a land area of 0.91 acres in lieu of the required 1.5 acres, and denied Petitioners' request for a variance in case No.: 07-211-SPHA to permit an individual side yard of thirty-six (36) feet on the east side of the proposed dwelling and to permit an individual side yard of thirty-six (36) feet on the west side of the existing dwelling in lieu of the required fifty (50) feet.

On Wednesday, May 14, 2008 at 10:00 a.m., the Board held a public *de novo* hearing of both cases. The Petitioners /Appellants, W. Marcus and Cindi Lynn Levinson, were represented by Lawrence M. Hammond, Esquire. The Office of People's Counsel was represented by Carole S. Demilio, Esquire. The Office of People's Counsel submitted its post-hearing memorandum

on June 13, 2008. A public deliberation was held by the Board on Thursday, July 10, 2008 at 9:30 a.m.

Background

The subject property consists of two adjacent parcels, which were created by deed in 1968. The size of the two parcels is 1.8 acres and they are zoned RC 5. The two parcels are located at 602A Church Road in the 4th Election District and the 4th Councilmanic District of Baltimore County. The two parcels are assessed separately for real estate tax purposes. Parcel No.1 is improved by a residence that was constructed in 1969, and consists of a land area of 36,154 square feet. Parcel No.2 is unimproved and consists of a land area of 36,155 square feet. The Petitioners have resided on Parcel No.1 since 2000.

The parcels were zoned R40 in 1968 when they were created. The R40 zoning classification required a minimum lot size of 40,000 square feet except for two or more lots in the same ownership and in the same tract wherein a minimum of 30,000 square feet is permitted if the average of all the lot sizes in the same ownership and same tract equals 40,000 square feet or more. The parcels were rezoned to RDP in 1971. RDP was created by County Council Bill No. 100 in 1971 and required a lot size of 43,500 square feet. The parcels were rezoned to RC5 in 1988 as part of the Comprehensive Zoning Map Process. RC5 zoning increased the lot size requirement from 1 acre to 1.5 acres and density to 0.5 acre. It requires 2 acres to support one dwelling. Parcels numbers 1 and 2 are 1.8 acres in total.

Issue

Can the Petitioners construct a residence on Parcel No.2, which is presently zoned RC5?

As stated above, Parcel No. 2 is 0.91 acres and 36,155 square feet in size. RC5 zoning requires an area of 1.5 acres and 0.5 density. The parcel is adjacent to and under common

ownership with Parcel No.1 on Church Road. The two lots together total 1.8 acres. There is an existing dwelling on Parcel No.1. The two lots were created by deed in 1968 and were zoned R40 at the time. The existing dwelling on Parcel No. 1 was constructed in 1969.

Petitioners contend that the two parcels were part of the "John Whitaker" tract, which is an unrecorded plat created in 1945. The Petitioners have requested a Special Hearing to permit construction of a residence on Parcel No. 2 and if the Special Hearing request is granted, have requested variances for setbacks on both Parcel Nos. 1 and 2.

Testimony and Evidence

Mr. Hammond presented Mr. Bruce E. Doak, who is a principal with Merritt Development Consultants, Inc. and oversees development, surveying, land planning, and zoning. Mr. Doak was accepted as an expert witness.

Mr. Doak testified that Parcel Nos. 1 and 2 were conveyed by a deed executed by and between James M. Carpenter III, Personal Representative of the Estate of Dorothy V. Carpenter, Grantors, and W. Marcus Levinson and Cindi Lynn Levinson on March 31, 2000. (Petitioners' Exhibit No. 1) Parcel No.1 was improved by a residence that was built in 1968, and Parcel No 2 is vacant. Both parcels were zoned R40 at the time the deed was executed. Mr. Doak testified that R40 zoning requires a minimum of 40,000 square feet or 30,000 square feet if all of the lots in the tract average 40,000 square feet. Mr. Doak testified that the tract used to measure the lot size was the John Whitaker tract, an unrecorded plat created in 1945. Mr. Doak could not produce a copy of the John Whitaker subdivision tract to calculate the lot size averaging under the R40 regulations.

People's Counsels Exhibits No. 1, No. 2, and No. 3 indicate that the two parcels were created by Deed dated May 29, 1968 between William T. Heiland, Jr., and Carolyn D. Heiland and Arlington Contractors, Inc. Subsequently, the two parcels were conveyed by Arlington

Contractors Inc., to the Carpenters by Deeds dated April 2, 1969 and January 23, 1970. Mr. Doak did not dispute that the parcels were created by Deed in 1968. Mr. Doak testified that there was no evidence of merger of the two parcels. He testified that there is adequate area for a septic system and well on Parcel No. 2. He testified that RC5 zoning requires 1.5 acre and R40 one acre. He did not survey Parcel No. 2. He testified that if a house were built on Parcel No. 2 it would face the existing dwelling on Parcel No. 1 and would not be incompatible to the other properties in the area. He described the relief requested as a request for a variance. He testified that the Petitioners would have a hardship if the variances were not granted because they would not be able to build on Parcel No. 2 without the variances.

Ms. Demilio, on cross-examination of Mr. Doak, reviewed several Baltimore County regulations as they pertain to area requirements, particularly Section 202.1 of the BCZR, which explains the area regulations for the R40 zone; the *Baltimore County Code* (BCC) Article IV Section 22-32 Subdivision Regulations, BCC Section 22-33 Exception of Governmental Approval of Subdivision Regulations, and BCC Section 102 General Requirements.

Mr. Hammond presented Petitioner, W. Marcus Levinson, as his second and last witness. Mr. Levinson testified that his mother's lot is adjacent to and is approximately the same size as Parcel No. 1 which is the location of his existing residence. He testified that he always believed that he had two separate lots.

Decision

After thorough review of the testimony, evidence, People's Counsel Post-Hearing Memorandum, and the law, it is the unanimous opinion of this Board that Petitioners do not meet the requirements of lot size in an RC5 zone nor the limited exception under Baltimore County Zoning Regulation 1A04.3B1b1, which states:

> The owner of a single lot of record that is not a subdivision, that is in existence prior to September 2, 2003, does not meet the minimum acreage requirement or

does not meet the setback requirement of paragraph 2 may apply for a Special Hearing under Article V to alter the minimum lot size requirement however the provisions of section 1A04.4 may not be varied.

We agree with People's Counsel Memorandum page 5, which states:

The exception applies to those rare occasions where the owner has held one undeveloped lot that may have met the prior zoning requirements on the site but which does not satisfy the current standards. The exception provides the property owner in these instances with a use for the site. But if a property owner owns two contiguous undersized lots, then the owner can construct one dwelling, which allows for a reasonable use that conforms as nearly as possible to the current regulations.

The Petitioner does not own just a single lot as the exception to the RC5 regulation requires but owns two adjacent lots. We agree with Mr. Levinson that he owns two lots as he testified; however, the problem is that when he purchased the property back in 2000 the two lots had been rezoned to RC5, and therefore they do not qualify as to the size that RC5 regulation requires. Had the Levinsons owned the two lots since they were created back in 1968, it is very possible that the exception to the RC5 zoning classification would apply for them although even that exception is questionable. Absent the John Whitaker tract, it is not possible to make any kind of a calculation as to whether the average of the lots in the Whitaker tract would average out to 40,000 square feet and if that would be the case, then the lot in question, Parcel No. 2, would qualify; but without that evidence being presented, there is no way that we can make a judgment that had the Levinsons owned the property in 1968, they would qualify for the RC5 exception.

Because the Petitioners do not meet the requirements of lot size in an RC5 zone nor the limited exception under BCZR 1A04.3B1b1, their request for special hearing and variance in Case No. 07-211-SPHA is denied, and the variance request in Case No. 07-210-A is also denied.

It should be noted that Counsel for the Petitioners did not submit a Post-Hearing Memorandum.

ORDER

THEREFORE, IT IS, this 12th day of August, 2008, by the Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing in Case No. 07-211-SPHA to permit a lot having a land area of 0.91 acres in lieu of the required 1.5 acres in a RC5 is **DENIED**; and it is further

ORDERED that the Petitions for Variances in Case No. 07-210-A and Case No. 07-211-SPHA for a variance of the required side yards for Parcels number 1 and 2 are **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 Crizer, Chairman

Lawrence Wescott

Robert Witt

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

March 11, 2008

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 07-210-A — **IN THE MATTER OF: W. MARCUS AND CINDI LYNN LEVINSON – Legal Owners /Petitioners** 602A Church Road 4th E; 4th C

AND

CASE #: 07-211-A — **IN THE MATTER OF: W. MARCUS AND CINDI LYNN LEVINSON – Legal Owners /Petitioners** 602A Church Road 4th E; 4th C

3/15/2007 – D.Z.C.'s Decision in which requested special hearing relief was DENIED; and requested variance relief DENIED as moot.

which had been scheduled to be heard on 3/12/08 has been POSTPONED at the request of Counsel for Petitioner; and, without objection by the Office of People's Counsel; and has been

REASSIGNED FOR: **WEDNESDAY, MAY 14, 2008 at 10:00 a.m.**

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner : Lawrence M. Hammond, Esquire
Appellant /Petitioner : W. Marcus and Cindi Lynn Levinson

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

IN THE MATTER OF: **W. MARCUS LEVINSON** **& CINDI LYNN LEVINSON** **Legal Owners/ Petitioners**	*	**COUNTY BOARD**
	*	**OF APPEALS**
	*	**OF BALTIMORE COUNTY**
	*	**Case #: 07-210-A & 07-211-A**

* * * * * * * * * * * * *

REQUEST FOR POSTPONEMENT

The Petitioners, pursuant to Rule 2 (b) and Rule 2 (c) of the Board's Rules of Practice and Procedure moves for a postponement of the hearing of this matter on the ground that Petitioner's counsel is unavailable due to a death in his family and the necessity for counsel to travel to Louisiana in order to attend services.

WHEREFORE, Petitioner's move for a continuance of the hearing of this matter until such a time that is convenient to the Board and all parties.

RECEIVED
MAR 1 1 2008
BALTIMORE COUNTY
BOARD OF APPEALS

Lawrence M. Hammond
Hammond & Hammond, LLC
465 Main Street, P.O. Box 569
Reisterstown, Maryland 21136
(410) 977-7258
Attorney for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of March, 2008, a copy of the foregoing Motion for Postponement was hand delivered to the Office of People's Counsel, 105 West Chesapeake Avenue, Suite 204, Towson, Maryland 21204.

Lawrence M. Hammond

Southwest Airlines Purchase Confirmation

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Southwest Airlines Confirmation Number(s)

Passenger Type	Confirmation Number	Passenger	Account Number	Disability Assistance
Adult	KZ42WR	Lawrence Hammond	00000363975754	- None Entered -
Adult	KZ42WR	MiMi Hammond	- None Entered -	Assistance requested. Please inform Southwest Airlines Representative upon arrival at the airport

Air Itinerary

Trip	Date	Day	Stops	Routing	Flight	Routing Details
Depart	Mar 11	Tue	1	BWI-MSY	1243	Depart Baltimore (BWI) at 6:30 PM Arrive in New Orleans (MSY) at 8:55 PM
Return	Mar 15	Sat	Nonstop	MSY-BWI	3409	Depart New Orleans (MSY) at 7:00 AM Arrive in Baltimore (BWI) at 10:25 AM

Pricing

Passenger Type	Trip	Routing	Type of Fare	Base Fare	U.S. Taxes	PFC	Security Fee1	Passenger(s)	Total
Adult	Depart	BWI-MSY	Business	$258 60	$26.40	$4 50	$2.50	2	$584.00
	Return	MSY-BWI	Business	$258.60	$22 90	$4.50	$2.50	2	$577.00
			Total	**$517.20**	**$49.30**	**$9.00**	**$5.00**		**$1161.00**

1 Security Fee is the government-imposed September 11th Security Fee.

Billing Information

Credit Card Holder Name: Lawrence Hammond

Billing Address: *465 Main Street*
P O. Box 569
Reisterstown, MD 21136

Confirmation Number: KZ42WR

Passenger Type: Adult

Passenger Name(s): Lawrence Hammond
MiMi Hammond

Form of Payment: American Express: XXXXXXXXXXX2011 **$1161.00**

Total Air	Base Fare	U.S. Taxes	PFC	Security Fee1	Passenger(s)	Total
BWI - MSY MSY - BWI	$517.20	$49 30	$9.00	$5 00	2	**$1161.00**

1 Security Fee is the government-imposed September 11th Security Fee

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Southwest Airlines Co. - Notice of Incorporated Terms - Air transportation operated by Southwest Airlines is subject to Southwest Airlines' Passenger Contract of Carriage, the terms of which are incorporated by reference. Incorporated terms include but are not limited to: (1) Limits on liability for loss, damage to, or delayed delivery of passenger baggage, including fragile, perishable, and certain other irreplaceable and/or high-value goods or contents, as specified in Article 75 of the Contract of Carriage. Baggage liability for covered items (except disability assistive devices) is limited to $3,000 per fare-paying Customer unless excess valuation coverage is purchased (2) Claims restrictions, including timeperiods in which Customers must file a claim or bring an action against Southwest. (3) Our rights to change terms of the Contract. (4) Rules on reservations, checkin times, refusal to carry, and smoking. (5) Our rights and limits of liability for delay or failure to perform service, including schedule changes, substitution of alternate air carriers or aircraft, and rerouting. (6) Overbooking. If we deny you boarding due to an oversale and you have obtained your boarding pass and are present and available for boarding in the departure gate area at least ten minutes before scheduled departure, with few exceptions, we compensate you

You may inspect Southwest's Contract of Carriage and Customer Service Commitment at any Southwest ticket counter or online at southwest.com, or obtain a copy by sending a request to Southwest Airlines, V.P. Customer Relations, PO Box 36647, Dallas, TX 75235-1647. Note: When traveling on any flight operated by another carrier, that operating carrier's contract of carriage applies.

© 2007 Southwest Airlines Co. - **Patent Pending**

Requested: 6/19/07

APPEAL SIGN POSTING REQUEST

23 K1

CASE NO. 07-210-A

W. MARCUS & CINID L. LEVINSON

4th ELECTION DISTRICT APPEALED: ~~5/08/2007~~ 4/16/07

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.: 07-2210-A - 07-211-SPHA

LEGAL OWNER: W. MARCUS & CINDI L. LEVINSON

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

602-A CHURCH ROAD

The sign was posted on _____, 2007.

By: _____
(Signature of Sign Poster)

_____
(Print Name)

HAMMOND & HAMMOND, L.L.C.
ATTORNEYS AT LAW
465 MAIN STREET
P. O. BOX 569
REISTERSTOWN, MARYLAND 21136-0569
(410) 833-7576
FAX: (410) 833-4744

LLOYD J. HAMMOND (RETIRED)
LAWRENCE M. HAMMOND

OF COUNSEL
DOUGLAS S. CURTIS

April 16, 2007

BY HAND DELIVERY

Timothy Kotroco, Esquire
Director, Department of
Permits & Development Management
County Office Building
Chesapeake Avenue
Towson, MD 21204

RE: Petition for Special Hearing and Variance
Case No. 07-211-SPHA and 07-210-A
Property: 602A Church Road

Dear Mr. Murphy:

Please be advised that the Petitioners in the above referenced matter hereby appeal the decision of the Deputy Zoning Commissioner dated March 15, 2007.

Thank you for your cooperation in this matter.

Sincerely yours,

Lawrence M. Hammond

LMH:dje
Enclosure as noted
cc: Mr. & Mrs. Marcus Levinson

RECEIVED
APR 16 2007
Per.

Requested: 6/19/07

APPEAL SIGN POSTING REQUEST

CASE NO. 07-210-A

W. MARCUS & CINID L. LEVINSON

4th ELECTION DISTRICT

APPEALED: ~~5/08/2007~~ 4/16/07

ARTICLE 1A—RURAL AND RURAL-SUBURBAN LOW-INTENSITY ZONES
[Bill No. 100, 1970.]

Section 1A00—R.D.P. ZONES (RURAL: DEFERRED-PLANNING). [Bill No. 100, 1970.]

1A00.1—General Provisions. [Bill No. 100, 1970.]

1.[1] Purpose. The R.D.P. zoning classification is established, pursuant to the legislative findings set forth above,[2] in order to:

a. Prevent untimely urban development of relatively open rural land; and

b. Foster conditions favorable to agriculture and other low-intensity uses appropriate in rural areas, considering both the magnitude of total land acreage needed for such uses and the current prospective needs for developable urban land.

[Bill No. 100, 1970.]

2. Intent as to application of R.D.P. zoning classification to property or removal therefrom. It is intended:

a. That rural land shall be classified within R.D.P. zones unless the Capital Budget and Five-Year Capital Program of Baltimore County and duly adopted official Baltimore County master plans, including the "county plan" required under Article 43, Section 387C of the Annotated Code of Maryland, 1957 (1965 Replacement Volume) as amended, all consistently indicate that such land is to be serviced by public sewerage and water-supply systems and, in the case of those said documents which determine the timing of construction, also consistently provide for the adequacy and availability of service to said land by such systems within a period of six years after the time of consideration with respect to zoning classification; provided further, however, that such nonserviced land as is specifically herein described (in this Subparagraph 3[3] or other provisions in these regulations) as being appropriately otherwise classified shall also be excepted from the category of land which shall be classified as R.D.P.;

b. That land classified as R.D.P. shall not be reclassified (rezoned) until such time as the documents hereinabove noted have been officially changed or replaced in kind and thereby then indicate possible appropriateness of reclassification under the criteria hereinbefore stated;

---

1. *The line designating this subparagraph and those immediately following as parts of a Paragraph "A" was deleted from Bill No. 100, 1970 by amendment after introduction.*
2. *Findings deleted from Bill No. 100, 1970 by amendment after introduction.*
3. *Now Subparagraph 2, as a result of amendment of Bill No. 100, 1970 after introduction.*

Exhibit A

R. 40 ZONE

Section 202—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

202.1—Lot Area and Width—Each principal building hereafter erected shall be located on a lot having an area of not less than 40,000 square feet and a width at the front building line of not less than 150 feet, except that for two or more lots in the same ownership, and in the same tract, a minimum lot area of 30,000 square feet is permitted if the average of all the lot sizes in the same ownership and in the same tract equals 40,000 square feet or more. A wedge shaped lot at the end of a cul-de-sac street may have a width at the front building line of not less than 100 feet (see Section 304).

202.1.1—In a cluster subdivision a minimum lot area of 25,000 square feet is permitted, provided that the average area of all lots in the subdivision equals at least 30,000 square feet and that the total area in residential lots plus the area of the local open space tract(s) equals or exceeds the number of lots multiplied by 40,000 square feet. In such subdivision not more than 75 per cent of the lots may be less than 30,000 square feet in area and the minimum permitted width at the front building line is 100 feet.

202.2—Front Yard—For dwellings, the front building line shall be not less than 50 feet from the front lot line and not less than 75 feet from the center line of the street; for other principal buildings—70 feet from the front lot line and not less than 95 feet from the center line of the street.

202.3—Side Yards—For dwellings, 20 feet wide for one side yard and not less than 50 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 50 feet from the side lot line and not less than 75 feet from the center line of the street; for other principal buildings—40 feet wide, except that for a corner lot the building line along the side street shall be not less than 65 feet from the side lot line and not less than 90 feet from the center line of the street.

202.4—Rear Yard—50 feet deep.

375-07

Exhibit B

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

March 15, 2007

WILLIAM J. WISEMAN III
Zoning Commissioner

LAWRENCE M. HAMMOND
PO BOX 569
REISTERSTOWN MD 21136

Re: Petition for Special Hearing and Variance
Case No. 07-211-SPHA and 07-210-A
Property: 602A Church Road

Dear Mr. and Mrs. Levinson:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy
Deputy Zoning Commissioner
for Baltimore County

JVM:pz
Enclosure

c: W. Marcus and Cindi Lynn Levinson, 602A Church Road, Reisterstown MD 21123

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

May 8, 2007

Lawrence M. Hammond
Hammond & Hammond, L.L.C.
465 Main Street, PO Box 569
Reisterstown, MD 21136

Dear Mr. Hammond:

RE: Case: 07-210-A, 602A Church Road

Please be advised that this office has received your appeal of the above-referenced case on April 16, 2007. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:amf

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
W. Marcus Levinson Cindi Lyn Levinson 602A Church Road Reisterstown 21136

RECEIVED
MAR - 9 2007
ZONING COMMISSIONER

RE: PETITION FOR SPECIAL HEARING AND VARIANCE 602 CHURCH ROAD , SW/S Church Road 340' SE Blackforest Road 4th Election District & 4th Councilmanic Districts Legal Owners: W. Marcus & Cindi Levinson Petitioner(s)	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 07-210-A; 07-211-SPHA

* * * * * * * * * * * *

PETITIONER'S POST HEARING MEMORANDUM

The Petitioners in this case are the owners of record of two (2) lots that are contiguous and situate in the 4th Election District of Baltimore County. The improvements are known and designated as 602A Church Road. Both lots enjoy a zoning designation of RC-5.

The first lot (marked as Parcel 1 on the Plat to Accompany Petition for Variance) is improved with a single family home, which according to the records of the State Department of Assessments and Taxation was constructed in 1969 and has a land area of 36, 154.00 square feet, more of less. Tax account number (04) 04-03000578 has been assigned to this lot. With respect to this lot the Petitioners have requested a variance to permit an individual side yard on the east side of the existing dwelling of thirty-nine (39) feet in lieu of the required fifty feet; and to

permit an individual side yard on the west side of the existing dwelling of thirty=six (36) feet in lieu of the required fifty (50) feet.

The second lot (marked a Parcel 2 on the Plat to Accompany Petition for Zoning Variance and Special Hearing) has a land area of 39,640.00 square feet, more or less and is unimproved. The State Department of Assessments and Taxation has assigned tax account number (04) 16-00000605 to the lot. The Petitioners have requested approval, pursuant to Section 1A404.3B1.b (1) of the BCZR of a lot having a land area of 0.91(39,640.00 sq. ft.) of an acre, more or less in lieu of the required 1.5 acres, and a variance to permit an individual side yard on the east side of the existing dwelling of thirty-six (36) feet in lieu of the required fifty feet; and to permit an individual side yard on the west side of the existing dwelling of thirty-six (36) feet in lieu of the required fifty (50) feet.

Both lots are comprised of parts of lot 2 and 10 as shown on the unrecorded plat of John Whitaker, and have been assessed and taxed as separate lots since 1969. The improved lot was conveyed to James M. Carpenter, Jr., and Dorothy V. Carpenter, his wife, via a deed dated April 2, 1969, from Arlington Contractors, Inc., recorded among the Land Records of Baltimore County in Liber 4978, 094.

The unimproved lot was conveyed by Arlington Builders, Inc., to James M. Carpenter, Jr., and Dorothy V. Carpenter , by virtue of a deed dated January 23, 1970, which deed is recorded among the Land Records of Baltimore County in Liber 5068, folio 109.

At the time both of the Petitioner's lots were created they enjoyed a zoning designation of Rural Deferred Planning (RDP), and as such were legal lots as of the date of their creation. It is also important to note that most of the adjoining lots were created by deed and were not created via the subdivision process. Furthermore, it is the policy of the Department of Permits and Development Management to acknowledge the legitimacy of lots created by deed, if such lots were created prior to 1981. It is important to note that despite the fact these lots are contiguous; they have function as separate lots in every sense of the words. Not only are they described separately, they are assessed and taxed separately, and at no time has the unimproved lot been used to support the improved lot. It exists in its present form, as it has since 1969 when it was zoned RDP. The Petitioners acquired title in 2002 from the Carpenters and have continued to view the lot as a building lot, in the same way their predecessor in title; Arlington Contractors did when it created the lot in 1969.

Therefore the issue before the Hearing Officer is whether or not Parcel 2 is eligible for the relief requested pursuant to Section 1A404.3B1.b(1) of the BCZR, which reads as follows:

{} The owner of a single lot of record that is not a subdivision and that is in existence prior to September 2, 2003, but does not meet the minimum acreage requirement, or does not meet the setback requirement of Paragraph 2, may apply for a special hearing under Article 5 to alter the minimum lot size requirement. However, the provisions of Section 1A04.4 may not be varied.

Before addressing the particulars of the statute, one must first define "a lot of record". The Baltimore County Zoning Regulations in **Section 101, Definitions [BCZR 1955]** defines a lot of record as -{}{} A parcel of land with boundaries as recorded in the land records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision or other condition thereof. [Bill No. 100-1970]

Blacks Law Dictionary, 7th edition defines a lot as "A tract of land, esp. having specific boundaries or being used for a specific purpose."

By applying the definition of a lot of record contained in the BCZR, the Petitioners argue that their unimproved lot meets the criteria. It is in fact a parcel of land with boundaries, as recorded among the Land Records on the same date of the zoning regulations that govern the use, subdivision or other condition thereof. The description of the property has not changed since 1969, prior to the date the property was zoned RC-5.

The unimproved lot, shown as Parcel 2 on the Plat to Accompany Petition for Zoning Variance and Special Hearing is in fact a legal lot, either by the standards of the State of Maryland or Baltimore County. Therefore, the Petitioners have met the first hurdle of the test, and as such are eligible for consideration of the requested relief as set forth in Section 1A404.3B1.b(1) of the BCZR. The lot in question was in existence as of September 2, 2003 and was not part of a subdivision. The only reference was to an unrecorded plat which was never processed, nor accepted for recording by Baltimore County, Maryland. If this unrecorded plat were viewed as a subdivision, then it could be argued that every lot in Baltimore County was in fact part of a subdivision, since all of Baltimore County was once the property of Lord Baltimore, and subsequently divided and transferred to others. The unimproved lot also meets the acreage requirement of the statute. At the time the bill was enacted by

the County Council, the lot had and continues to have a land area of 0.91 of an acre, more or less. At the time bill was passed into law, it was done so in order to provide relief for the many lots that were located in the RC-5 zone but could not meet the new land area standards. Prior to the enactment of this statute, the Petitioners would have sought relief as an undersized lot. However, this regulation was enacted to provide relief for property much like the Petitioners. The County Council took the matter a step further. In order to protect the integrity of the various neighborhoods zoned RC-5 individuals still must meet the performance standards established by the Department of Planning in order to construct a home on the property. As such Petitioners believe their lot is in fact a legal lot and should be granted the requested relief and should have the opportunity to submit their plans to the Department of Planning for approval. The lot is very close in size to the former area requirements for RC-5 property and the Petitioners strongly believe that the County Council had property such as theirs in mind when Section 1A404.3B1.b(1) of the BCZR was enacted into law.

Therefore the Petitioners respectfully request that the relief requested in case 07-210-A and 07-211-SPHA be granted

Lawrence M. Hammond
465 Main Street, P.O. Box 569
Reisterstown, Maryland 21136
(410) 833-7576
Attorney for Petitioners

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 602A Church Road P1

which is presently zoned RC5

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) 1A04.3.2.b of the Baltimore County Zoning Regulations requesting an individual side yard on the east side of the existing dwelling of Thirty six (36') feet in lieu of the required Fifty (50') feet; 1A04.3.2.b of the the Baltimore County Zoning Regulations requesting an individual side yard on the west side of the existing dwelling of Thirty nine (39') feet in lieu of the required Fifty (50') feet. of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

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:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Legal Owner(s):

W. Marcus Levinson
Name - Type or Print

Signature

Cindi Lynn Levinson
Name - Type or Print

Signature

602A Church Road (410) 526-6214
Address Telephone No.

Reistertown, MD 21123
City State Zip Code

Attorney For Petitioner:

Lawrence M. Hammond
Name - Type or Print

Signature

Hammond & Hammond, L.L.C.
Company

465 Main Street, PO BOX 569 (410)833-7576
Address Telephone No.

Reisterstown, MD 21136
City State Zip Code

Representative to be Contacted:

Lawrence M. Hammond
Name

P.O. Box 569, Re (410) 833-7576
Address Telephone No.

Reisterstown, MD 21136
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 07-210-A

Reviewed By LTM Date 11/8/06

REV 9/15/98

FILING RECEIVED FOR FILING
Date 3/15/07
By B

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: # 07-210-A
602A Church Road, Parcel 1
S/west side of Church Road, 340 feet s/east of Blackforest Road
4th Election District - 4th Councilmanic District
Legal Owner(s): W. Marcus & Cindi Lynn Levinson
Variance: To permit an individual side yard on the east side of the existing dwelling of thirty-six (36) feet in lieu of the required fifty (50) feet; and to permit an individual side yard on the west side of the existing dwelling of thirty-nine (39) feet in lieu of the required fifty (50) feet.
Hearing: Thursday, January 11, 2007 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
JT 12/766 Dec. 26 119957

CERTIFICATE OF PUBLICATION

12/28/, 2006

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 12/26/, 2006.

- [x] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

14393/180 P1

ZONING DESCRIPTION OF 602A CHURCH ROAD

Beginning for the same at a point in the center of a 15' wide roadway known as Black Forest Road and at the end of the third line of Lot no. 10 as shown on an unrecorded plat of John c. Whitakers land, thence running reversely on this line 1) North 77-20-00 East 112.50' to the center of lot 10, thence for a line of division along the center of lot no.10 2) South 15-25-00 Eest 325.00' to lot no. 2; thence for lines of division and binding on the center line of a 20 foot road as now laid out 3) South 37-40-00 East 59.08' and 4) South 15-25-00 East 246.15' to the center of Old Church Road, thence binding on the centerline of Old Church Road 5) South 77-20-00 West 10.01' to the west side of said 20' road. Thence binding on the west side of said road 6) North 15-25-00 West 243.23' and 7) North 37-40-00 West 61.67' to Lot No. 10, thence binding on the division line between lot no. 10 and lots 1 and 2 8) South 77-20-00 West 101.47' to a line of a parcel of land which by deed dated May 11, 1946, and recorded among the Land Records of Baltimore County in liber R.J.S. No. 1455, Folio 530, etc. was conveyed by John C. Whitaker to John C. Long; Thence binding on said line 9) North 15-25-00 West 325.00' to the point of beginning.

210

Department of Permits and Development Management

Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

November 20, 2006

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 07-210-A
602A Church Road, Parcel 1
S/west side of Church Road, 340 feet s/east of Blackforest Road
4th Election District – 4th Councilmanic District
Legal Owners: W. Marcus & Cindi Lynn Levinson

Variance to permit an individual side yard on the east side of the existing dwelling of thirty-six (36) feet in lieu of the required fifty (50) feet; and to permit an individual side yard on the west side of the existing dwelling of thirty-nine (39) feet in lieu of the required fifty (50) feet.

Hearing: Thursday, January 11, 2007 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Room 407, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Lawrence Hammond, 465 Main Street, P.O. Box 569, Reisterstown 21136
W. Marcus Levinson, 602A Church Road, Reisterstown 21123

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, DECEMBER 27,2007.**
(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.

Printed on Recycled Paper

RE: PETITION FOR VARIANCE 602A Church Road (P1); SW/S Church Road, 340' SE Blackforest Road 4th Election & 4th Councilmanic Districts Legal Owners: W. Marcus & Cindi Levinson Petitioner(s)	* * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 07-210-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

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of November, 2006, a copy of the foregoing Entry of Appearance was mailed to, Lawrence M. Hammond, Esquire, P.O. Box 569, Reisterstown, MD 21136, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED
NOV 15 2006
Per.....

PLEASE PRINT CLEARLY

CASE NAME_____
CASE NUMBER_____
DATE_____

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP 21136	E-MAIL
W. MARCUS LEVINSON	602A CHURCH RD	REISTERSTOWN	MARCUSLEVINSON@comcast.NET
Lawrence Hammond	465 MAIN ST. P.O. BOX 569	Reisterstown MD 21136	HHLAWLLC@AOL.COM

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

January 3, 2007

Lawrence M. Hammond
Hammond & Hammond, LLC
465 Main Street, PO Box 569
Reisterstown, MD 21136

Dear Mr. Hammond:

RE: Case Number: 07-210-A, 602A Church Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 8, 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.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
W. Marcus and Cindi Lynn Levinson 602A Church Road Reisterstown 21123

1-11-07
JM

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

DEC 9 2006

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination JWL

DATE: December 29, 2006

SUBJECT: Zoning Item # 07-210-A
Address 602 A Church Road
(Levinson Property)

Zoning Advisory Committee Meeting of November 13, 2006

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

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

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

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

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

Additional Comments:

Reviewer: Glenn Shaffer Date: December 6, 2006

S:\Devcoord\1 ZAC-Zoning Petitions\ZAC 2007\ZAC 07-210-A.doc

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

SHA State Highway Administration *Driven to Excel*

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 11-13-2006

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

RE: Baltimore County
Item No. 7-210-A
602A CHURCH ROAD
LEVINSON PROPERTY
VARIANCE - PERMIT SIDE YARD
IN LIEU OF 50' REQUIREMENT

Dear Ms. Matthews:

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. 7-210A .

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,

Michael P. Bailey

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

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

November 16,2006

ATTENTION: Zoning Review Planners

Distribution Meeting Of: November 13, 2006

210

Item Number(s): 203 through 212

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
Department of Permits & Development Management

DATE: November 14, 2006

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For November 20, 2006
Item Nos. 07-202, 203, 204, 205, 206, 207, 208, 209, 210, 211, and 212

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-11142006.doc

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: March 9, 2007

FROM: Dennis A. Kennedy DAK
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee
Item No. 06-210-A Revised

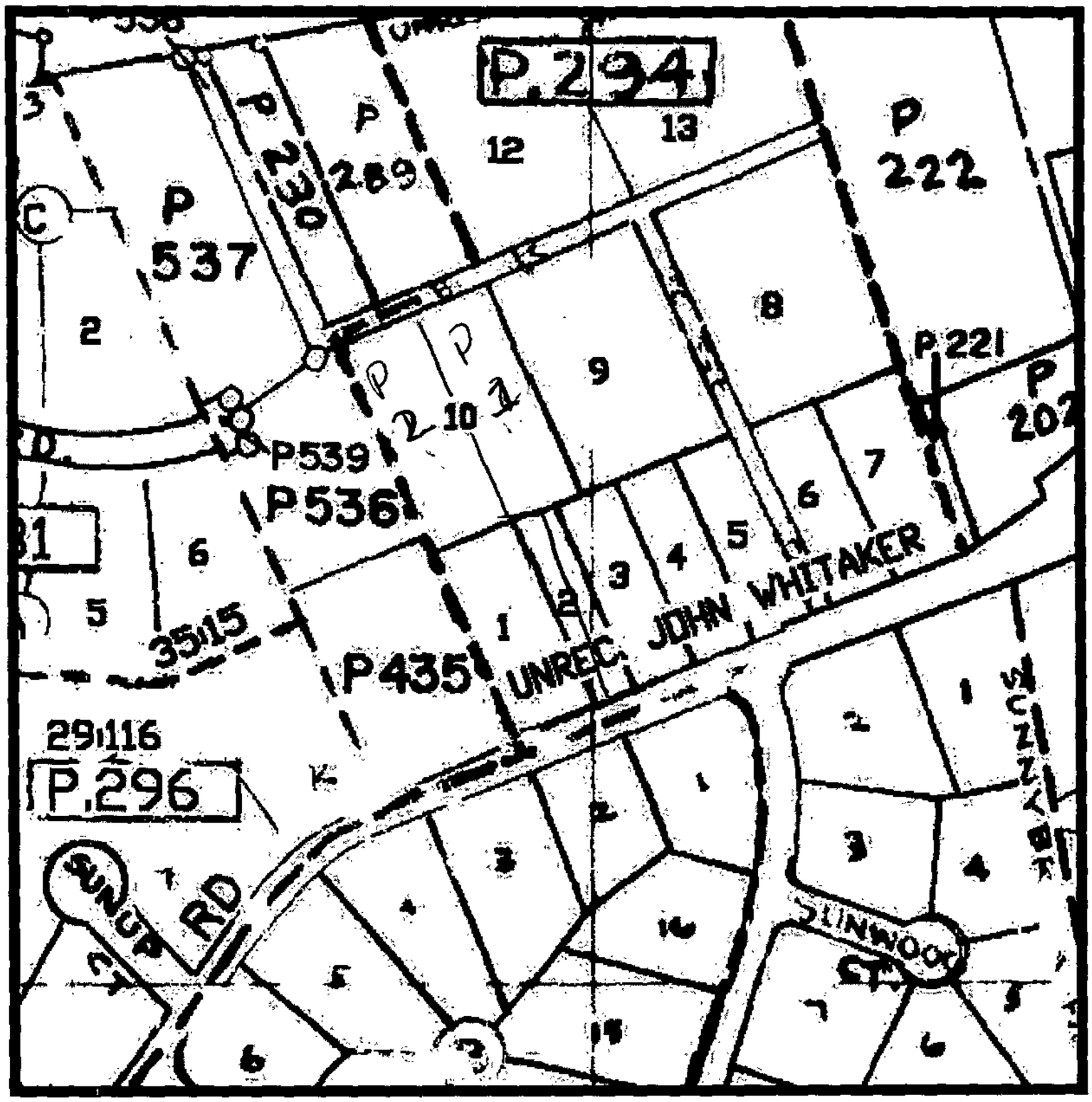
With the release of the County drainage and utility easement, we have no objection to the requested side-yard setback of 0 feet.

DAK
cc:file,Guy Ward,John Murphy

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

Go Back
View Map
New Search

District - 04**Account Number** - 0403000578



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

Pet #4

Click here for a plain text ADA compliant screen.

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 04 **Account Number** - 0403000578

Owner Information

Owner Name:	LEVINSON W MARCUS LEVINSON CINDI LYNN	**Use:**	RESIDENTIAL
		Principal Residence:	YES
Mailing Address:	602A CHURCH RD REISTERSTOWN MD 21136-6106	**Deed Reference:**	1) /14393/ 180 2)

Location & Structure Information

Premises Address
602 A CHURCH RD

Legal Description
PT LT 2,10
602 A CHURCH RD
JOHN WHITAKER LAND

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
57	11	294					2	1	Plat Ref:

Special Tax Areas **Town** **Ad Valorem** **Tax Class**

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1968	1,313 SF	36,154.00 SF	04

Stories	Basement	Type	Exterior
SPFOY		SPLIT FOYER	SIDING

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2005	As Of 07/01/2006
Land:	48,030	58,030		
Improvements:	88,590	110,500		
Total:	136,620	168,530	157,892	168,530
Preferential Land:	0	0	0	0

Transfer Information

Seller:	CARPENTER JAMES M,JR	**Date:**	04/05/2000	**Price:**	$138,000
Type:	MULT ACCTS ARMS-LENGTH	**Deed1:**	/14393/ 180	**Deed2:**	
Seller:	ARLINGTON CONTRACTORS INC	**Date:**	04/03/1969	**Price:**	$25,950
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 4978/ 94	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

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

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

5A

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 04 **Account Number** - 1600000605

Owner Information

Owner Name:	LEVINSON W MARCUS LEVINSON CINDI LYNN	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	602A CHURCH RD REISTERSTOWN MD 21136-6106	**Deed Reference:**	1) /14393/ 180 2)

Location & Structure Information

Premises Address
602 A BLACKFOREST RD

Legal Description
PT LT 2,10
JOHN C WHITAKER PLAT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No: Plat Ref:
57	11	294					2	1	

Special Tax Areas **Town** **Ad Valorem** **Tax Class**

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		36,155.00 SF	04

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2005	As Of 07/01/2006
Land:	9,030	9,030		
Improvements:	0	0		
Total:	9,030	9,030	9,030	9,030
Preferential Land:	0	0	0	0

Transfer Information

Seller: CARPENTER JAMES M	**Date:** 04/05/2000	**Price:** $138,000
Type: MULT ACCTS ARMS-LENGTH	**Deed1:** /14393/ 180	**Deed2:**
Seller: ARLINGTON CONTRACTORS INC	**Date:** 01/26/1970	**Price:** $2,000
Type: IMPROVED ARMS-LENGTH	**Deed1:** / 5068/ 109	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

Exemption Information

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

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

5B

00-060
LEVINSON

THIS DEED, Made this 31st day of March in the year Two Thousand, by and between **JAMES M. CARPENTER, III, Personal Representative of the Estate of Dorothy V. Carpenter**, Grantors, and **W. MARCUS LEVINSON and CINDI LYNN LEVINSON, married persons**, of the County and State aforesaid, Grantees.

WHEREAS, the said **DOROTHY V. CARPENTER** departed this life on October 28, 1998, leaving a Last Will and Testament, filed in the Orphans' Court of Baltimore County, Maryland, Estate No. 104763, whereby she appointed **JAMES M. CARPENTER, III**, Personal Representative of her Estate; and

WHEREAS, the said **JAMES M. CARPENTER, III**, is now acting as such Personal Representative; and

WHEREAS, to carry out his duties as Personal Representative under the provisions of the Estates and Trusts Article of the Annotated Code of Maryland (1974 ed.) these presents are executed.

NOW THEREFORE, THIS DEED WITNESSETH, That in consideration of **One Hundred Thirty-Eight Thousand and 00/100 ($138,000.00) DOLLARS**, the receipt of which is hereby acknowledged, the said **JAMES M. CARPENTER, III**, Personal Representative of the Estate of Dorothy V. Carpenter, Deceased, does hereby grant and convey unto the said **W. MARCUS LEVINSON and CINDI LYNN LEVINSON**, married persons, as tenants by the entireties, their assigns, and to the survivor of them and the personal representatives, heirs and assigns of the survivor, in fee simple, all that lot of ground situate in the Fourth District, Baltimore County, State of Maryland and described as follows, that is to say:

PARCEL NO. 1:

BEGINNING FOR THE SAME at a point in the center of a roadway 15 feet wide, now known as Black Forest Road, laid out parallel to Old Church Road, at the end of the third line of Lot No. 10, as shown on the unrecorded Plat of John C. Whitaker's land; running thence binding on the center of said road north 77 degrees 20 minutes east 112.50 feet to the center of Lot No. 10, thence for line of division along the center of Lot No. 10 south 15 degrees 25 minutes east 325 feet to Lot No. 2; thence for lines of division and binding on the center line of a 20 foot road as now laid out south 37 degrees 40 minutes east 59.08 feet and south 15 degrees 25 minutes east 246.15 feet to the center of Old Church Road; thence binding on the center of Old Church Road south 77 degrees 20 minutes west 10.01 feet to the west side of said 20 foot road; thence binding on the west side of said road north 15 degrees 25 minutes west 243.23 feet and north 37 degrees 40 minutes west 61.76 feet to Lot No. 10; thence binding on the division line between Lot No. 10 and Lots No. 1 and 2 south 77 degrees 20 minutes west 101.47 feet to a line of a parcel of land which by deed dated May 11, 1946, and recorded among the Land Records of Baltimore County in Liber R.J.S. No. 1455, folio 530, etc., was conveyed by John C. Whitaker to John C. Long; thence binding on said line north 15 degrees 25 minutes west 325 feet to the point of beginning.

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ATTORNEYS AND
COUNSELLORS AT LAW
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(410) 766-9115

Being one-half of Lot No. Ten (10) and part of Lot No. Two (2) as shown on unrecorded Plat of John C. Whitaker's land.

SUBJECT to a right-of-way ten feet wide beginning at the end of the second line of the above described property and running thence northerly binding reversely on said second line 150 feet; thence westerly 10 feet, thence southerly parallel to said second described line and ten feet westerly therefrom 150 feet to the aforesaid Lot No. 2 shown on the above-referred to unrecorded Plat; thence easterly binding on Lot No. 2 ten feet to the place of beginning. Which ten foot right-of-way, together with a similar ten foot right-of-way adjoining to the east makes a twenty foot right of way to be used in common by the owner of this lot and the lot adjoining to the east.

The 20 foot roadway running from the south line of Lot No. 10 on the unrecorded Plat of John C. Whitaker's land to the center of Old Church Road is to be used in common by the owners and occupiers of the eastern half of Lot No. 10 and the western half of Lot No. 10 on said unrecorded plat and the lots adjoining said 20 foot right of way on the east and west shall also have the right to use the same in common with others entitled thereto.

PARCEL NO. 2:

BEGINNING FOR THE SAME at a point in the center of roadway 15 feet wide now known as Black Forest Road, laid out parallel to Old Church Road, and at the end of the second line of Lot No. 9 as shown on unrecorded Plat of John C. Whitaker's land; running thence reversely with this line south 15 degrees 25 minutes east 325 feet to the northernmost side of Lot No. 3; thence binding on the division line between Lot No. 10 and Lots No. 2 and No. 3 south 77 degrees 20 minutes west 101.47 feet to the east side of a 20 foot road as now laid out; thence binding on the east side of said road south 37 degrees 40 minutes east 56.40 feet and south 15 degrees 25 minutes east 249.07 feet to the center of Old Church Road; thence binding on the center of Old Church Road. South 77 degrees 20 minutes west 10.01 feet to the center of said 20 foot road; thence binding on the center of said road north 15 degrees 25 minutes west 246.15 feet and north 37 degrees 40 minutes west 59.08 feet to the centerline of the southernmost line of Lot No. 10; thence binding on the center of Lot No. 10, north 15 degrees 25 minutes west 325 feet to the center of Black Forest Road; thence binding on the center of said road north 77 degrees 20 minutes east 112.50 feet to the point of beginning.

BEING one-half of Lot No. 10 and part of Lot No. 2 as shown on unrecorded Plat of John C. Whitaker's land.

The 20 foot roadway running from the south line of Lot No. 10 on the unrecorded Plat of John C. Whitaker's land to the center of Old Church Road is to be used in common by the owners and occupiers of the eastern half of Lot No. 10 and the western half of Lot No. 10 on said unrecorded Plat, and the lots adjoining said 20 foot right of way on the east and west side shall also have the right to use the same in common with others entitled thereto.

THE IMPROVEMENTS THEREON being known as 602 A Church Road.

BEING the same lot of ground which by Deed dated April 2, 1969, and recorded among the Land Records of Baltimore County in Liber No. 4978, folio 094, was granted and conveyed from **Arlington Contractors, Inc.,** unto **James M. Carpenter, Jr. and**

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Dorothy V. Carpenter, his wife; and **being** the same lot of ground which by Deed dated January 23, 1970, and recorded among the aforesaid Land Records in Liber No. 5068, Folio 109, was granted and conveyed from **Arlington Contractors, Inc.** unto **James M. Carpenter, Jr. and Dorothy V. Carpenter, his wife; Dorothy V. Carpenter** since departed this life on or about October 28, 1998; and **James M. Carpenter, Jr.,** her husband having predeceased her on or about December 19, 1991.

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

TO HAVE AND TO HOLD the said described lot of ground and premises to the said **W. MARCUS LEVINSON and CINDI LYNN LEVINSON**, married persons, as tenants by the entireties, their assigns, and to the survivor of them and the personal representatives, heirs and assigns of the survivor, in fee simple.

GRANTEES herein certify, under penalty of perjury, that the real property conveyed by this Deed will be occupied by **GRANTEES** as their principal residence. **GRANTEES** further certify that they are a first time home buyer in the State of Maryland.

WITNESS the hand and seal of the said Grantor.

WITNESS:

_____ _____(SEAL)
JAMES M. CARPENTER, III, Personal Representative of the Estate of Dorothy V. Carpenter

STATE OF MARYLAND, County of Baltimore, **to wit:**

I HEREBY CERTIFY, That on this 31st day of March in the year Two Thousand, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared **JAMES M. CARPENTER, III, Personal Representative of the ESTATE OF DOROTHY V. CARPENTER, Grantor,** known to me, or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing Deed to be his act, and in my presence signed and sealed the same.

In Witness Whereof, I hereunto set my hand and official seal.

_____
Notary Public

My commission expires:
1-28-2002

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WITNESS the hand and seal of the said Grantor and Grantees.

WITNESS:

_____ (SEAL)
W. MARCUS LEVINSON, Grantee

(As to Both)
LANCE I. YATEMAN

_____ (SEAL)
CINDI LYNN LEVINSON, Grantee

STATE OF MARYLAND, County of Anne Arundel, to wit:

I HEREBY CERTIFY, That on this 31st day of March in the year Two Thousand, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared **W. MARCUS LEVINSON and CINDI LYNN LEVINSON, married persons, Grantees,** known to me, or satisfactorily proven to be the persons whose names are subscribed to the within instrument, and acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same.

In Witness Whereof, I hereunto set my hand and official seal.

_____
Notary Public
LANCE I. YATEMAN

My commission expires:

_____

IN ACCORDANCE WITH REAL PROPERTY SECTION 3-104 (f.), THIS IS TO CERTIFY THAT THE FOREGOING INSTRUMENT WAS PREPARED UNDER THE SUPERVISION OF THE UNDERSIGNED, AN ATTORNEY DULY ADMITTED TO PRACTICE BEFORE THE COURT OF APPEALS OF MARYLAND.

_____
LANCE I. YATEMAN

MEZGER
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BALTIMORE COUNTY CODE

1988

Published by Order of the County Council

MUNICIPAL CODE CORPORATION

Tallahassee, Florida 1991

Sec. 26-171. Limited exemptions.

(a) The following development is exempt from division 2 of this article only. Compliance with divisions 3, 4 and 5 is required as is compliance with all applicable zoning regulations.

(1) The building or preparation of land for building for a dwelling for one (1) or two (2) families (i) on a single lot or tract which is not part of a recorded plat, or (ii) on a lot or lots exempt from the lapse provisions of section 26-216.

(2) The building or preparation of land for building on a lot of record lawfully in effect at the time of the building or preparation of the land for building if the lot of record did not result from a subdivision of land exempt under section 26-170.

(3) The construction of one (1) tenant house or the location of one (1) trailer on a farm tract.

(4) The subdivision of property pursuant to court order, a will or the laws of interstate succession.

(5) The resubdivision or lot line adjustment of industrially zoned or commercially zoned parcels of land which have been the subject of a previously approved plan and recorded plat.

(6) The subdivision of land into three (3) or fewer lots for residential single-family dwellings, provided that they are not served by a panhandle driveway. If the lots are served by a panhandle driveway, the development is exempt from the requirements of sections 26-202 and 26-205 only.

(7) The construction of residential accessory structures or minor commercial structures.

(8) The construction of a building owned and operated by a county volunteer fire, ambulance or rescue company which is used primarily for storage or training purposes, fund-raising activities, or other purposes related to rescue or fire-suppression activities.

(9) Lot line adjustments in residential zones which are not part of an approved final development plan or zoning plan.

(10) A subdivision of land into three (3) or fewer lots recorded prior to January 26, 1990.

(b) The following development is exempt from the community input meeting and hearing officer's hearing pursuant to sections 26-202 and 26-206:

(1) Lot line adjustments, including the combination of lots or parcels.

(2) The subdivision of property pursuant to court order, a will or the laws of intestate succession.

(3) Amendments to an approved plan or plat which do not materially alter the proposed development.

(4) The subdivision of land in an approved state agricultural land preservation district or county agricultural easement for the purpose of the conveyance of lot(s) to the owner or his children pursuant to title 2, subtitle 5 of the agricultural article of the Annotated Code of Maryland and article XI of the Baltimore County Code. The use or development of land in a county agricultural easement established in accordance with section 14-457 of article XI of the Baltimore County Code, shall be governed by agricultural land preservation provisions enacted by the county council pursuant to section 14-461 of that article in the case of any conflict between those provisions and the Baltimore County zoning regulations.

(5) The subdivision of a farm tract into two (2) lots.

(6) The subdivision of land into three (3) or fewer lots for residential single-family dwellings.

(7) The construction of accessary structures.

(8) The subdivision of land or buildings in a planned office or industrial park for which a development plan has been approved in accordance with these regulations.

(9) A minor development, as defined in section 26-168, not to exceed a total of three (3) lots.

(Code 1978, § 22-42; Bill No. 172, 1989, § 2; Bill No. 18, 1990, §§ 2, 3; Bill No. 106, 1990, §§ 1, 2; Bill No. 1, 1992, § 2; Bill No. 50-93, 1993, § 3)

Sec. 26-172. Waivers.

(a) At the request of a department director, the hearing officer may grant a waiver of any or all requirements of division 3, 4 and 5 of these regulations if the hearing officer finds that:

(1) a. The size, scope and nature of a proposed development does not justify strict compliance with these regulations;

b. A waiver would be within the scope, purpose and intent of these regulations; and

c. All other county laws, ordinances and regulations have been complied with; or

(2) Compliance with these regulations would cause unnecessary hardship.

(3) A waiver shall be in accordance with the floodplain management regulations.

(b) A waiver from the requirements of section 26-203 of this Code and from the hearing officer's hearing may be granted under the following conditions:

(1) After consultation with appropriate county agencies the director finds:

a. That the size, scope, and nature of a proposed development does not justify strict compliance with these regulations; and

b. That a waiver would be within the scope, purpose, and intent of these regulations; and

c. That the proposed development complies with all other county laws, ordinances, and regulations.

(2) Before proposing to grant a waiver for development within the critical area, the director of planning shall obtain recommended findings from the director of the department of environmental protection and resource management which shall be based on the standards specified in section 26-205(b)(2)d.

(Code 1978, § 22-43; Bill No. 18, 1990, § 2; Bill No. 1, 1992, § 2; Bill No. 173-93, § 3, 11-17-93; Bill No. 8-96, § 3, 3-23-96)

Sec. 26-173. Transfer of land in unapproved or expired subdivision.

(a) A person may not convey any lot, parcel, or tract of a subdivision unless a plat, if required, has been recorded in accordance with these regulations and the plat is effective at the time of said conveyance.

(b) The transferee of any lot, parcel or tract conveyed in violation of this section may bring an action in the circuit court for recision of the conveyance and return of any deposit or purchase money paid, as well as reimbursement for reasonable expenses, including attorney's fees, incurred in connection with the conveyance.
(Code 1978, § 22-44)

Sec. 26-174. Recording unapproved plat.

A person may not offer and the clerk of the circuit court may not accept any plat for recording in the plat records of the county unless the same has been approved for recording as required by these regulations. If such plat is recorded, it shall be considered a nullity.
(Code 1978, § 22-45; Bill No. 18, 1990, § 2)

Sec. 26-175. Enforcement and remedies.

(a) The county may bring an action for specific performance of these regulations or may move to set aside a conveyance made in violation of these regulations at the cost and expense of the transferor.

(b) A permit may not be issued without compliance with these regulations.
(Code 1978, § 22-46)

Sec. 26-176. Failure of county agency to act.

If any county agency fails to act on any plan or plat submitted in accordance with these regulations within the prescribed time, the plan or plat shall be deemed to have been approved by the agency unless the failure to act has been excused by the administrative officer, in writing, no later than seven (7) days after the expiration of the prescribed time.
(Code 1978, § 22-47)

ants that are discharged from structures or conveyances or that have run off from surrounding lands;

2. Conserve fish, wildlife, and plant habitat; and

3. Are consistent with established land use policies for development in the Chesapeake Bay critical area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

(c) Comments and conditions pursuant to subsection (b) above shall be considered by the hearing officer and become a permanent part of the plan file. If no comments or conditions are received by the hearing officer, the plan shall be considered to be in compliance with applicable county regulations.

(d) Notice of the date, time and place of the hearing officer's hearing shall be conspicuously posted at the county's direction on the lot, parcel or tract which is the subject of the plan at least twenty (20) working days prior to the hearing. A plan may not be considered by the hearing officer unless the subject property has been posted in accordance with this section.

(e) Prior to the initial review of the development plan, representatives of the department of public works and office of planning and zoning shall visit the site.

(Code 1978, § 22-57; Bill No. 18, 1990, § 2; Bill No. 1, 1992, § 2)

Sec. 26-206. Development plan approval.

(a) Final action on a plan shall be after a public quasi-judicial hearing before the hearing officer. The hearing shall be conducted on any comment or proposed or requested condition which remains unresolved. If no comment or condition remains unresolved after the initial phase of the hearing, which may be informal in nature, the hearing officer shall make such a finding for the record, shall enter the plan into the record, may require such additional testimony or evidence as he deems necessary, and shall grant approval pursuant to the requirements of this section. If a comment or condition remains unresolved, the hearing officer shall proceed to take testimony and receive evidence and render a decision pursuant to the requirements of this section.

(b) The hearing officer shall grant approval of a development plan that complies with these development regulations and applicable policies, rules and regulations promulgated pursuant to section 2-416 et seq. of the Code, provided that the final approval of a plan shall be subject to all appropriate standards, rules, regulations, conditions, and safeguards set forth therein. All final decisions of the hearing officer with respect to such matters shall be subject to appeal to the county board of appeals as provided in section 26-209 below.

(c) The hearing shall be scheduled as required by section 26-204(c) above.

(d) For a period of at least fifteen (15) days prior to the time of such hearing, notice of the date, time, and place shall be conspicuously posted at the county's direction on the lot, parcel, or tract which is the subject of the plan.

(e) The conduct and operation of such hearings shall be in conformance with rule IV of the zoning commissioner's rules which shall be adopted by reference.

(f) The hearing officer shall have the power to administer oaths and may require witnesses to testify under oath.

(g) The hearing officer shall, upon any final decision on a plan, file an opinion and include therein the basis of the decision.

(h) The department of permits and development management and the hearing officer shall cause to be maintained complete files with respect to all hearing proceedings over which the hearing officer presides. The file with respect to said hearing shall include at least the following documents:

(1) The plan;

(2) Reports or comments or proposed or requested conditions from county agencies,

the community input meeting, community groups, or any party or private person relating to the plan;

(3) Exhibits introduced in evidence at the hearing;

(4) The final decision rendered by the hearing officer;

(5) Sections 26-130 and 26-131 of this Code shall be applicable.

(i) The final decision of the hearing officer shall be issued within fifteen (15) days after the final hearing held on the plan. If no decision is rendered within this fifteen-day requirement, the plan shall be deemed approved as submitted by the applicant.

(j) If no decision is rendered, the appeal period begins from the fifteenth day after the final hearing is held. However, the hearing officer shall immediately notify the parties that the plan is deemed approved and that the appeal period has begun.

(k) Copies of a plan approved by the hearing officer shall be forwarded to the directors of public works, planning and zoning, and environmental protection and resource management within five (5) working days after the date of the hearing officer's decision granting approval of the plan as submitted or as revised within the five-day period in compliance with the hearing officer's requirements for any condition imposed upon the plan.

(l) All subsequent detailed development plans such as the final grading and sediment control plan, stormwater management plan, landscape plan, and record plat shall be sealed and certified as being in accordance with the approved development plan.

(m) Copies of any portion of the plan file shall be available to any person upon request and payment of any necessary fees.

(n) The proceedings of any hearing shall be recorded. Any person may have access to the recorded proceedings upon request and upon payment of any fees or costs involved.

(o) In approving a plan, the hearing officer may impose such conditions, as may be deemed necessary or advisable based upon such factual findings as may be supported by evidence for the protection of surrounding and neighboring properties. Such conditions may only be imposed if:

(1) The condition is based upon a comment which was raised or a condition which was proposed or requested by a party;

(2) Without the condition there will be an adverse impact on the health, safety or welfare of the community;

(3) The condition will alleviate the adverse impact; and

(4) The condition does not reduce by more than twenty (20) percent the number of dwelling units proposed by a residential development plan in a DR 5.5., DR 10.5, or DR 16 zone, and no more than twenty (20) percent of the square footage proposed by a nonresidential development plan. This subsection is not applicable to a PUD development plan.

The owners, lessees or tenants of the property for which a plan is approved, if required by the hearing officer, shall enter into an agreement in writing with the hearing officer stipulating the conditions governing such final plan approval, the same to be recorded among the land records of the county. The cost of such agreement and the cost of recording thereof shall be borne by the party requesting such approval. When so recorded, such agreement shall govern the exercise of the development plan as approved, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, assignment or other transfer.

(p) No permit may be issued and no plat recorded in connection with the development plan for a period of thirty (30) days after the final decision of the hearing officer under section 26-206 in a case involving an unresolved comment or condition.

(q) In the review of PUDs the hearing officer may:

(1) Approve the authorization plan as submitted by the planning board;

(2) Approve the plan with such additional modifications or conditions deemed necessary to meet the standards of this section; or

(3) Deny the plan.

(r) The hearing officer may approve a PUD development plan only upon a finding that:

(1) In due consideration of the comments or reports submitted by other agencies or officials, the proposed development meets the intent, purpose, conditions and standards of this section;

(2) The proposed development will not create conditions as set forth in paragraphs A, B, C, D, E or F of subsection 502.1 of the county zoning regulations and will constitute a good design, use and layout of the proposed site;

(3) There is a reasonable expectation that the proposed development will be developed to the full extent of and fully in accordance with the PUD development plan (including development schedules contained therein), in light of: evidence as to the applicant's or developer's financial responsibility in general and with respect to the development proposed; pertinent market data submitted by the applicant, by county agencies or officials, or by others; development cost; general economic conditions which may be anticipated at the time the development or any phase thereof is to be financed; and all other factors which may reasonably be ascertained and have a bearing on the findings;

(4) The development, as approved, would comply with all applicable provisions of the zoning regulations, and the resolution of any conflict between other county laws or technical requirements and the plan must be approved by the hearing officer and incorporated within the plan as finally approved;

(5) The plan is in accordance with the planning objectives and requirements of section 430 of the county zoning regulations, the comprehensive manual of development policies, and the zoning regulations in general;

(6) The project is in conformance with the goals, objectives and recommendations of the master plan or area plans; and

(7) The development does not violate the provisions of any deed or covenants attached to the property.

(s) If modifying a PUD development plan, the hearing officer may grant waivers or variances, special exceptions or special hearings as deemed necessary for the plan to meet the intent, purposes and standards of this section.

(t) The hearing officer's order granting approval of a PUD development plan shall include a statement supported in detail by an explanation of each finding, any additional statements or documentation needed to set forth adequately the basis of the decision, and statements and explanations of any requirements or conditions attached to the grant of the plan.
(Bill No. 1, 1992, § 3; Bill No. 29-95, §§ 1, 3, 5-21-95; Bill No. 69-95, § 10, 7-1-95)

Sec. 26-206.1. Combined zoning and plan approval hearing.

(a) If the development plan requires a special exception, variance, special hearing, or interpretation of the zoning regulations, the applicant may combine the public hearing required by section 26-127 and by the county zoning regulations with the public hearing held by the hearing officer on the plan.

(b) The scheduling of the combined hearing shall be subject to section 26-204 (c) and section 26-206.
(Bill No. 1, 1992, § 3)

Sec. 26-207. Referral to planning board.

(a) The hearing officer shall refer the plan to the planning board in the following circumstances:

(1) The proposed plan conflicts with the master plan;

(2) The zoning regulations require planning board consideration;

(3) The plan involves a building, structure or site included on the landmarks preserva-

LABORATORY — A building or group of buildings used primarily for applied and development research where the product-testing process is a major function of the operation, but where the operation does not involve any mass manufacturing. **[Bill No. 76-1964]**

LANDSCAPE SERVICE OPERATION — An operation primarily engaged in the designing, installing, planting or maintaining of lawns, gardens or other plantings at off-site commercial or residential uses. **[Bill No. 41-1992]**

LIQUEFIED NATURAL GAS FACILITY — A natural gas facility located onshore or in state waters that is used to receive, unload, load, store, transport, gasify, regasify, liquefy, or process natural gas that is imported to the United States from a foreign country, exported to a foreign country from the United States, or transported in interstate commerce by a waterborne vessel. **[Bill No. 9-2007]**

LOCALLY GROWN PRODUCE — Crops which have been produced in Baltimore County or its immediate vicinity. The following areas shall be considered as immediate vicinity: Maryland, Pennsylvania, West Virginia and Delaware. **[Bill No. 41-1992]**

LOT, CORNER — A lot abutting on and at the intersection of two or more streets.

LOT DEPTH — The mean horizontal distance between the front and rear lot lines.

LOT, INTERIOR — A lot other than a corner or through lot.

LOT OF RECORD — A parcel of land with boundaries as recorded in the land records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision or other condition thereof. **[Bill No. 100-1970]**

LOT, THROUGH — A lot having its front and rear yards each abutting on a street.

MARINA — A modern boat basin, restricted to recreational marine craft of all types, with facilities for one or more of the following: berthing, launching and securing such craft, and permitting incidental minimum provision for refueling and emergency servicing, as well as the incidental sale of boats and also land (out-of-water) storage as provided in Section 417.7. **[Bill Nos. 64-1963; 149-1992]**[3]

MEDICAL OFFICE — A place for the treatment of outpatients by one or more medical practitioners. This term does not include a veterinarian's office, medical clinic, ambulatory care center, diagnostic center, birthing center or dialysis satellite unit. The term does not include ambulatory surgical facilities. **[Bill No. 37-1988]**

MEDICAL PRACTITIONER [Bill Nos. 37-1988; 29-1998; 9-1999]:

A. A physician, dentist, optometrist, chiropractor, podiatrist, psychologist, physical therapist, nurse, massage therapist as defined by § 24-441 of the Baltimore County Code or other similar health professional licensed by the state.[4]

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[3] Editor's Note: The former definition of "medical clinic," which immediately followed this definition, was repealed by Bill No. 39-2002.

[4] Editor's Note: Section 8 of Bill No. 9-1999 provided that this definition shall take effect on 2-22-1999, and shall remain in effect until the State Board of Chiropractic Examiners notifies the County Council, in writing, that the Board is certifying massage therapists.

RADIO OPERATOR ANTENNA — A wireless antenna used in conjunction with radio transmitting and receiving facilities used by a resident amateur radio operator possessing an amateur radio operator's license issued by the Federal Communications Commission. **[Bill No. 30-1998]**

RAIL PASSENGER STATION — A facility designed as a place for boarding and alighting from rail passenger vehicles. A rail passenger station may include such facilities as bus bays, parking areas or taxicab stands as accessory uses. **[Bill No. 91-1990]**

RECORD LOT — A lot or parcel of land that has been created in accordance with the provisions of Article 32, Title 4, Subtitle 2 of the Baltimore County Code and recorded among the land records of Baltimore County on or before the effective date of these regulations. **[Bill Nos. 98-1975; 137-2004]**

RECREATIONAL VEHICLE AND BOAT — A vehicular type unit which is primarily designed for recreation, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which, except for a boat kept in water, is not more than 35 feet in length and which, in general, is of such size and weight as not to require special highway movement permits when driven or drawn by a passenger automobile or pickup truck. The following shall be considered recreational vehicles: **[Bill No. 54-1993]**

BOAT — A recreational boat with or without a trailer. If in combination with a trailer, a boat is normally towed by a vehicle. **[Bill Nos. 29-1974; 54-1993]**

CAMPING TRAILER — A vehicular portable unit mounted on wheels and constructed with collapsible side walls which fold down for towing by another vehicle and unfold at campsite to provide temporary living quarters.

FIFTH-WHEEL TRAILER — A vehicular portable unit mounted on wheels, designed and constructed to be towed by a passenger automobile or pickup truck fitted with a fifth-wheel hitch.

MOTOR HOME — A vehicular unit built on a self-propelled motor vehicle chassis.

TRAVEL TRAILER — A vehicular portable unit mounted on wheels, designed to be towed by a passenger automobile or pickup truck.

TRUCK CAMPER — A portable unit designed to be loaded onto, or affixed to, the bed or chassis of a truck or automobile.

RECREATIONAL VEHICLE PARKING LOT — A lot of real property, with or without structures, for parking or storage of operable recreational vehicles. **[Bill No. 102-2006]**

RESEARCH INSTITUTE — A building or group of buildings used primarily for basic and applied research wherein the scientific inquiry process is conducted in a manner similar to that of institutions of higher learning and where all parts of the operation involving the development research process, e.g., product testing, are incidental to the above. **[Bill No. 76-1964]**

RESEARCH PARK [Bill Nos. 112-1999; 119-2006] — A building or group of buildings:

Section 102
General Requirements
[BCZR 1955]

102.1 No land shall be used or occupied and no building or structure shall be erected, altered, located or used except in conformity with these regulations and this shall include any extension of a lawful nonconforming use.

102.2 No yard space or minimum area required for a building or use shall be considered as any part of the yard space or minimum area for another building or use.

102.3 No portion of an alley shall be considered as any part of a side or rear yard.

102.4 No dwelling, other than a multifamily building, shall be built on a lot containing less than 20,000 square feet which does not abut on a right-of-way at least 30 feet wide over which the public has an easement of travel, except as provided for panhandle lots in § 32-4-409 of the Baltimore County Code. **[Bill Nos. 172-1989; 2-1992; 137-2004]**

102.5 On a corner lot in any residential zone, no planting, fence, wall, building or other obstruction to vision more than three feet in height shall be placed or maintained within the triangular area bounded on two sides by the front and side street property lines, or by projections of said lines to their point of intersection, and on the third side by a straight line connecting points on said lot lines (or their projections), each of which points is 25 feet distant from the point of intersection. At the intersection of a street and an alley, the dimension corresponding to the 25 feet noted above shall be 15 feet and 10 feet at the intersection of two alleys. Poles, posts and guys for streetlights and for other utility services shall not be considered obstructions to vision within the meaning of this section. **[Resolution, November 21, 1956]**

102.6 No building permit shall be issued for any commercial, industrial or apartment development until the proposed plan for vehicular access thereto shall have been first approved by the Baltimore County Department of Permits and Development Management. **[Resolution, November 21, 1956]**

102.7 Where development of a property includes both a special exception and a residential subdivision, the area allocated for use as a special exception shall not be included in the calculation of residential density. **[Bill No. 74-2000]**

Section 103
Application of Zoning Regulations[1]
[BCZR 1955]

103.1 These regulations shall apply as of the date of their adoption but the provisions pertaining to use, height, area and density of population shall not apply to any development, subdivision or parcel of land, the preliminary plan for which was

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[1] **Editor's Note: Section 4 of Bill No. 24-2006, a bill which amended Article 32, Planning, Zoning and Subdivision Control, of the Baltimore County Code 2003, stated as follows: "This Act is adopted independently of Section 103 of the Baltimore County Zoning Regulations so that it supersedes and abrogates the rights to the vesting of a development that would otherwise accrue from the zoning or development regulations or other County laws."**

φ is the initial phase or angular dis-
constant equal to 2π times the fre-

onors in trump or three aces at no-
bridge.
paid only on the original principal,

E lb.
nicroscope having one lens or lens
hand lens.
lin'did) adj. 1. Not sophisticated :
ally defective. —sim'ple-mind'ed-
ss n.
PLUM 1.
nce having no coordinate or subordi-
l.
ple Simon, a character in a nursery

haride.
< SIMPLE.] A fool.
t. simplex, simple.] Denoting a sys-
/ one message may be sent in either

, pl. -ties. [ME symplicite < OFr. <
ple.] 1. The quality, state, or fact of
ity or showiness. 3. Absence of affec-
d sense or intelligence: FOOLISHNESS.
ed, -fy·ing, -fies. [Fr. simplifier <
plus, simple + facere, to make.] To
'pli·fi·ca'tion n. —sim'pli·fi'er n.
r. simplisme < OFr. simple, simple.]
an issue by ignoring complexities.
j. —sim·plis'ti·cal·ly adv.
simple way: PLAINLY. 2. Foolishly.
: altogether <simply ludicrous>
quite simply, incompetent.>
, being, or characterized by a mathe-
into two separate parts by every sim-

g any three mathematical elements
elements equal or connected by an

ăk'rə) n. pl. of SIMULACRUM.
ăk'ər) n. Archaic. A simulacrum.
əm, -lăk'rəm) n., pl. -la·cra (-lā'krə,
ulate < similis, like.] 1. An image or
vague semblance.
chaic. —n. One that simulates: SIMU-

lat·ed, -lat·ing, -lates. [Lat. simu-
To have or take on the appearance,
To make a pretense of: FEIGN <simu-
tion> —adj. (-lit, -lāt'). Simulated.

i) n. 1. The act or process of simulat-
appearance.
2. One that simulates, esp. a device
approximating actual or operational

i'əl-) vt. -cast·ed, -cast·ing, -casts.
CAST.] To broadcast simultaneously,
—si'mul·cast' n.
nē·əs, sim'əl-) adj. [Lat. simul, at the
nstantaneous.] 1. Occurring, existing,
2. Math. Collectively restricting the
simultaneous equations> —si'mul-
ta'ne·ous·ness, si'mul·ta·ne'i·ty

mn.] 1. Transgression of a religious or
m God as a result of breaking God's
ult, or error. —vi. sinned, sin·ning,
r moral law. 2. To commit an offense

shin, the letter shin.] The 21st letter
table at ALPHABET.
rə·pəs, sī-, sī'năn·thrō'pəs, sin'ăn-) n.
me: SINO- + anthropus, human be-
primate of the genus Sinanthropus,
n.
[Fr. sinapisme < LLat. sinapismus <
stard plaster < sinapizein, to apply a
ard.] A mustard plaster.
contraction of sithenes < OE siððan.]
ween then and now <left home and
Before now: AGO <long since for-
fied time in the past <has not been
1. During the time after which <They
ey graduated.> 2. Continuously from

the time when <They have not called since they left.> 3. As a result of the fact that: INASMUCH AS <Since you're not interested I won't tell you about it.>

sin·cere (sĭn·sîr') adj. -cer·er, -cer·est. [Lat. sincerus.] 1. Not feigned or affected: TRUE <sincere apologies> 2. Presenting no false appearance: HONEST <a sincere believer> 3. Archaic. Pure: unadulterated. —sin·cere'ly adv. —sin·cere'ness n. —sin·cer'i·ty (-sĕr'ĭ-tē) n.

sin·ci·put (sĭn'sə-pŭt) n., pl. sin·ci·puts or sin·cip·i·ta (sĭn-sĭp'ĭ-tə) [Lat.: semi-, half + caput, head.] 1. The upper half of the cranium, esp. the anterior portion above and including the forehead. 2. The forehead. —sin·cip'i·tal (-sĭp'ĭ-tl) adj.

Sin·dhi (sĭn'dē) n., pl. Sindhi or -dhis. [Ar. Sindi.] 1. a. The predominantly Moslem people of Sind. b. A member of this people. 2. The Indic language of Sind. —Sin'dhi adj.

sine (sīn) n. [Med. Lat. sinus < Lat., curve.] 1. The ordinate of the endpoint of an arc of a unit circle centered at the origin of a Cartesian coordinate system, the arc being of length x and measured counterclockwise from the point (1, 0) if x is positive or clockwise if x is negative. 2. The function of an acute angle that is the ratio of the opposite side to the hypotenuse in a right triangle.

si·ne·cure (sī'nĭ-kyŏŏr', sĭn'ĭ-) n. [< Med. Lat. sine cura, without cure of souls.] 1. An ecclesiastical benefice not attached to the spiritual duties of a parish. 2. A position or office requiring little or no work but providing a salary. —si'ne·cur·ism n. —si'ne·cur·ist n.

sine curve n. The graph of the equation y = sin x.

si·ne di·e (sī'nē dī'ē, sĭn'ā dē'ā') adv. [Lat., without a day.] Without a day specified for a future meeting: INDEFINITELY <Parliament was dismissed sine die.>

si·ne qua non (sĭn'ī kwā nŏn', nōn', sī'nī kwā nōn') n. [Lat., without which not.] An essential element.

sin·ew (sĭn'yōō) n. [ME sinewe < OE sinu.] 1. A tendon. 2. Vigorous muscular strength and power. 3. often sinews. The source or mainstay of vitality and strength.

sine wave n. Physics. A waveform with deviation that can be expressed as the sine or cosine of a linear function of time or space or both.

sin·ew·y (sĭn'yōō-ē) adj. 1. Consisting of or being like sinew. 2. Lean and muscular. 3. Strong: vigorous.

sin·ful (sĭn'fəl) adj. Characterized by or full of sin: WICKED <sinful deeds><sinful thoughts> —sin'ful·ly adv. —sin'ful·ness n.

sing (sĭng) v. sang (săng), sung (sŭng), sing·ing, sings. [ME singen < OE singan.] —vi. 1. To utter a series of sounds or words in musical tones. 2. To vocalize songs. 3. To produce or have the quality of melody: LILT. 4. To produce musical sounds when played <on the violin sing> 5. To make a high whine <The machine sang>. 6. To be filled with a buzzing sound <The great hall sang with voices.> 7. To proclaim or extol something in poetry. 8. Slang. To give information or evidence against someone. —vt. 1. To render tones with musical inflections of the voice <The messenger sang the telegram.> 2. To produce the musical sound of. 3. To intone or chant. 4. To proclaim, esp. in verse <sang our praises> 5. To lull to a specified state by singing <sang the child to sleep> —sing out. To shout out loudly. —n. A gathering of people for group singing. —sing'a·ble adj.

sing·a·long (sĭng'ə-lông', -lŏng') n. A songfest.

singe (sĭnj) vt. singed, singe·ing, sing·es. [ME sengen, OE sengan.] 1. To burn superficially: SCORCH. 2. To burn the ends of. 3. To burn off the feathers or bristles of by subjecting briefly to flame. —singe n. —sing'er (sĭn'jər) n.

sing·er (sĭng'ər) n. 1. A person who sings, esp. a trained or professional vocalist. 2. A poet. 3. A songbird.

Sin·gha·lese (sĭng'gə-lēz', -lēs') also **Sin·ha·lese** (sĭn'hə-lēz', -lēs') n., pl. Singhalese also Sinhalese. [Skt. Simhala, Sri Lanka, -ESE.] 1. A people constituting the major portion of the population of Sri Lanka. 2. The Indic language of the Singhalese that is the official language of Sri Lanka. —adj. Of or relating to the Singhalese or their language.

sin·gle (sĭng'gəl) adj. [ME sengle < OFr. < Lat. singulus.] 1. Unaccompanied by another or others: SOLE <a single survivor> 2. a. Consisting of one part or form <a single layer><a single standard of quality> b. Consisting of one alone <I had but a single thought, which was to survive.> 3. Undivided: unbroken. 4. Separate from others: DISTINCT. 5. Designed to accommodate only one <a single room> 6. a. Unmarried <single people> b. Of or pertaining to celibacy. 7. Bot. Having only one rank or row of petals <a single flower> —n. 1. A separate unit: INDIVIDUAL. 2. An accommodation for one person. 3. One who is unmarried <a bar for singles> 4. A one-dollar bill. 5. a. Baseball. A one-base hit. b. A run in cricket. c. A golf match between two players. d. singles. A tennis match between two players. —v. -gled, -gling, -gles. —vt. 1. To choose from among others <singled you out for this great honor> 2. Baseball. To cause (a baserunner) to advance by making a one-base hit. —vi. Baseball. To make a one-base hit. —sin'gle·ness n.

Syns: 1. SINGLE, DISCRETE, INDIVIDUAL, SEPARATE, SINGULAR adj. core meaning: being a distinct entity <a sentence made up of single words> 2. SINGLE, LONE, ONE, ONLY, PARTICULAR, SOLE, SOLITARY adj. core meaning: alone in a given category <a single prehistoric monument still standing> 3. SINGLE, UNMARRIED, UNWED adj. core meaning: being without a spouse <single parents> ant: married, wed

sin·gle·blind (sĭng'gəl-blīnd') adj. Of, pertaining to, or being an experimental procedure in which the experimenters know the composition of the test and control groups but the subjects do not.

sin·gle·breast·ed (sĭng'gəl-brĕs'tĭd) adj. Closing with a narrow overlap and fastened down the front with a single row of buttons <a single-breasted coat>

single combat n. Combat between two individuals.

single entry n. A system of bookkeeping in which a business keeps only a single account showing amounts due and amounts paid.

single file n. A line of individuals, animals, or objects standing or moving one behind the other. —single file adv.

sin·gle·foot (sĭng'gəl-fōōt') n. A rapid gait of a horse in which each foot strikes the ground separately. —vi. -foot·ed, -foot·ing, -foots. To go at the single-foot.

sin·gle·hand·ed (sĭng'gəl-hăn'dĭd) adj. 1. Working or performed without help: UNASSISTED. 2. Designed for use with one hand. 3. Having or using one hand. —sin'gle·hand'ed·ly adv. —sin'gle·hand'ed·ness n.

sin·gle·heart·ed (sĭng'gəl-här'tĭd) adj. Sincere and dedicated. —sin'gle·heart'ed·ly adv. —sin'gle·heart'ed·ness n.

single knot n. An overhand knot.

sin·gle·mind·ed (sĭng'gəl-mīn'dĭd) adj. 1. Having one overriding opinion or purpose. 2. Steadfast. —sin'gle·mind'ed·ly adv. —sin'gle·mind'ed·ness n.

sin·gle·phase (sĭng'gəl-fāz') adj. Producing, carrying, or powered by a single alternating voltage.

single bar n. A bar frequented esp. by unmarried people.

sin·gle·space (sĭng'gəl-spās') v. -spaced, -spac·ing, -spac·es. To typewrite (copy) without leaving a blank line between lines. To typewrite copy without line spaces.

sin·gle·stick (sĭng'gəl-stĭk') n. 1. A one-handed fencing stick fitted with a hand guard. 2. The art, sport, or exercise of fencing with a single stick.

sin·gle·stick·er (sĭng'gəl-stĭk'ər) n. Informal. A sailboat with one mast: SLOOP.

sin·glet (sĭng'glĭt) n. 1. A man's jersey undershirt, usu. without sleeves. 2. Physics. A multiplet with a single member.

single tax n. A system by which all revenue is derived from a tax on one object, esp. on land.

sin·gle·ton (sĭng'gəl-tən) n. [< SINGLE.] 1. A playing card that is the only one of its suit in a player's hand. 2. An individual separated or distinguished from two or more of its group.

sin·gle-track (sĭng'gəl-trăk') adj. 1. Having just one track. 2. Lacking range or flexibility: ONE-TRACK.

sin·gle·tree (sĭng'gəl-trē) n. A whiffletree.

sin·gly (sĭng'glē) adv. 1. Being without help or company: ALONE. 2. One by one: INDIVIDUALLY.

sin·gong (sĭng'sông', -sŏng') n. 1. Verse marked by mechanical regularity of rhythm and rhyme. 2. A monotonously rising and falling speech cadence.

sin·gspiel (sĭng'spēl', zĭng'shpēl') n. [G.: singen, to sing + spiel, play.] An 18th-cent. German musical comedy featuring folk songs interspersed with dialogue.

sin·gu·lar (sĭng'gyə-lər) adj. [ME singuler < OFr. < Lat. singularis < singulus, single.] 1. a. Being only one: INDIVIDUAL. b. Deviating widely from a norm: RARE <a singular archaeological find> 2. Of or being a word form denoting a single person or thing or several considered as a single unit. 3. Logic. Of or relating to the specific: INDIVIDUAL. 4. Peculiar: eccentric <singular behavior> —n. 1. The singular number or a form denoting it. 2. A word having a singular form. —sin'gu·lar·ly adv. —sin'gu·lar·ness n.

sin·gu·lar·i·ty (sĭng'gyə-lăr'ĭ-tē) n., pl. -ties. 1. The quality or state of being singular. 2. A peculiarity marking one as distinct from others. 3. Something unusual. 4. A black hole. 5. Math. A point at which the derivative does not exist for a given function of a random variable but every neighborhood of which contains points for which the derivative exists.

sin·gu·lar·ize (sĭng'gyə-lə-rīz') vt. -ized, -iz·ing, -iz·es. To make singular: DISTINGUISH.

singular point n. SINGULARITY 5.

Sin·ha·lese (sĭn'hə-lēz', -lēs') n. & adj. var. of SINGHALESE.

Si·ni·cism (sī'nĭ-sĭz'əm, sĭn'ĭ-) n. [< Med. Lat. Sinicus, Chinese < Sinae, the Chinese. —see SINO-.] A custom or trait peculiar to the Chinese.

Si·ni·cize (sī'nĭ-sīz', sĭn'ĭ-) vt. -cized, -ciz·ing, -ciz·es. [ML Sinicus, Chinese < LLat. Sinae, the Chinese.] To make or modify by Chinese influence.

sin·is·ter (sĭn'ĭ-stər) adj. [ME sinistre < OFr. < Lat. sinister, left, unlucky.] 1. Suggesting evil or harm. 2. Presaging trouble: OMINOUS. 3. Of or on the left side: LEFT. 4. Heraldry. Of or on the observer's right. —sin'is·ter·ly adv.

sin·is·tral (sĭn'ĭ-strəl) adj. 1. Sinister. 2. Left-handed. 3. Zool. Dextrorse: that has its aperture to the left when the apex upward. —sin'is·tral·ly adv.

sin·is·trorse (sĭn'ĭ-strôrs') adj. Zool. Sinistral: Turning toward the left: sinistrorse shell. Bot. Growing upward in a spiral: sinistrorse vines> —sin'is·trorse'ly adv.

sin·is·trous (sĭn'ĭ-strəs) adj. Sinister: ominous: omened. —sin'is·trous·ly adv.

Si·nit·ic (sī-nĭt'ĭk, sĭ-) n. The branch of Sino-Tibetan that includes Chinese. —adj. Of the Sinitic branch.

sink (sĭngk) v. sank (săngk) or sunk, sunk·en, sink·ing, sinks. [ME sinken < OE sincan.] 1. To move to a lower level: DESCEND. 2. To move to a lower level or position: move downward. 4. To decline from a specified condition <sinking health> 5. To become worsened physical condition: become weaker, quieter, more feeble: whisper> 8. To diminish in intensity: feel great disappointment: <water sinking into the ground> meaning finally sank in> 9. To go below the surface <sink a battleship> <sink a bucket into the well> 4. To dig or drill (a well) 5. To become quieter, or less forceful: suppress: hide. 8. Inf. b. To invest without 11. To get (a ball) into a basin fixed to a wall, supply of water. 2. A place of evil and corrupt. —sink'er n.

sink·er (sĭng'kər) n. 1. One that sinks. 2. Weights for fishing lines or nets.

sink·hole (sĭngk'hōl') n. A cavity in the earth communicating with underground stone regions and formations.

sinking fund n. A fund for the retirement of a debt.

sin·less (sĭn'lĭs) adj. Free from sin. —sin'less·ly adv.

sin·ner (sĭn'ər) n. One who sins.

Sinn Fein (shĭn' fān') n. A political and cultural movement in Ireland.

Sino- pref. [Fr. < Lat. Sinae, the Chinese, China.] Chinese.

si·no·a·trial (sī'nō-ā'trē-əl) adj. Of, pertaining to the sinoatrial node.

sinoatrial node n. A mass of specialized fibers located in the right atrium of the heart that generates the impulse that initiates the heartbeat.

Si·no·logue (sī'nə-lôg', -lŏg') n. A specialist in sinology. [Back-formation.]

Si·nol·o·gy (sī-nŏl'ə-jē) n. The study of China and its culture. [Sino- + -logy.] Sinological (-nə-lŏj'ĭ-kəl) adj. —Si'no·log'i·cal·ly adv.

Si·no·phile (sī'nə-fīl') n. A lover of China and its culture: admirer of the Chinese and their interests.

Si·no-Ti·bet·an (sī'nō-tĭ-bĕt'ən) n. A family of languages that includes the Chinese and Tibetan languages. —Sino-Tibetan adj.

sin·ter (sĭn'tər) n. A porous deposit, esp. a crust, as of calcium carbonate, formed by precipitation from a mineral spring. —vt. To form into a mass by heating without melting: fuse together (ceramic powder). —vi. To form a mass by sintering.

sin·u·ate (sĭn'yōō-ĭt, -āt') adj. Bot. Sinuous, esp. pinnately lobed with deep rounded sinuses between the lobes: denoted: sinuate leaf. —sin'u·ate·ly adv.

sin·u·ous (sĭn'yōō-əs) adj. 1. Marked by bends or curves: winding. 2. Lithe: supple. 3. Sinuate. —sin'u·ous·ly adv. —sin'u·ous·ness n.

si·nus (sī'nəs) n. 1. A cavity in a bone, esp. one of the cavities in the bones of the skull that are lined with mucous membrane and connected by ducts with the nasal passages. 2. A cavity in the body, such as a vein or artery, filled with blood, as in the brain or the spinal cord. 3. Bot. A space between the lobes of a leaf. 4. Anat. A hollow in the surface of a bone. 5. Pathol. A fistulous channel leading from a deep abscess to the surface of the body. 6. Astron. A dark area on the surface of the moon. 7. Math. The ordinate of the endpoint of an arc of a unit circle centered at the origin of a Cartesian coordinate system, the arc being of length x and measured counterclockwise from the point (1, 0) if x is positive or clockwise if x is negative. —see SINE. [Lat. sinus, curve, fold, bosom.]

Maryland Department of Assessments and Taxation
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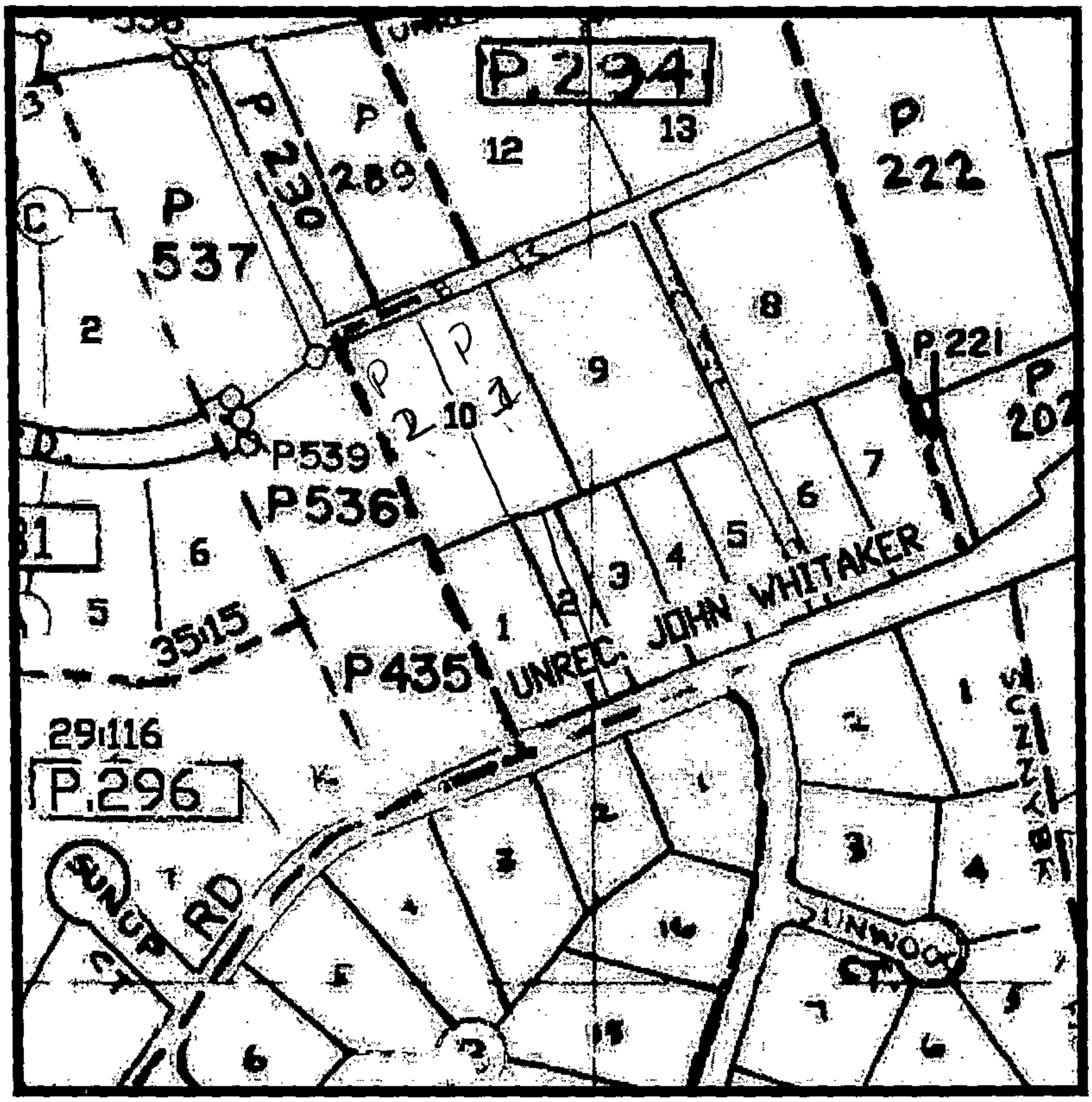

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CBA
P&EX6

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BALTIMORE COUNTY
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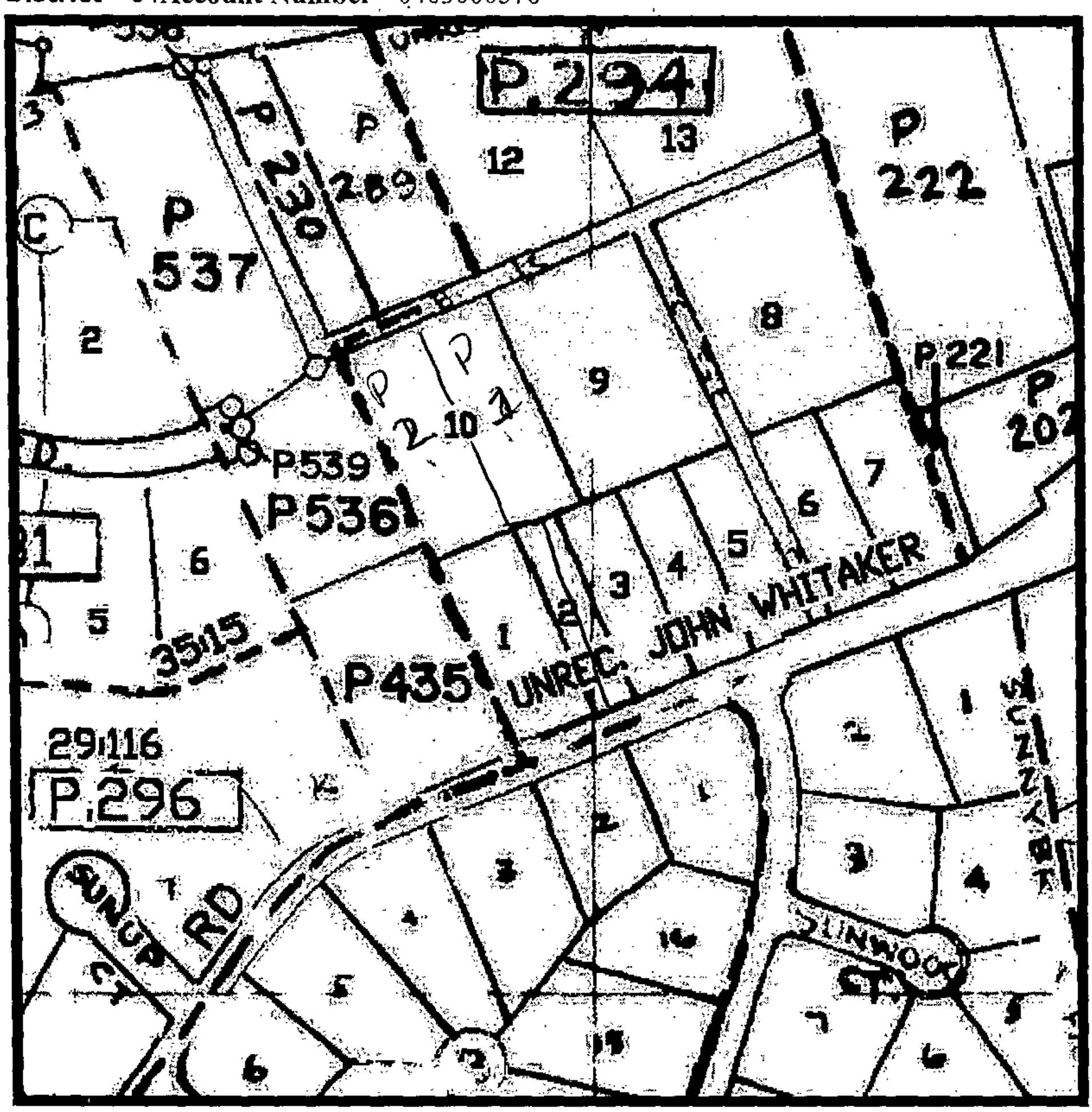
District - 04**Account Number** - 0403000578



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CBA
PET. EXH
NO. 6

00-060
LEVINSON

THIS DEED, Made this 31st day of March in the year Two Thousand, by and between **JAMES M. CARPENTER, III, Personal Representative of the Estate of Dorothy V. Carpenter,** Grantors, and **W. MARCUS LEVINSON and CINDI LYNN LEVINSON, married persons,** of the County and State aforesaid, Grantees.

WHEREAS, the said **DOROTHY V. CARPENTER** departed this life on October 28, 1998, leaving a Last Will and Testament, filed in the Orphans' Court of Baltimore County, Maryland, Estate No. 104763, whereby she appointed **JAMES M. CARPENTER, III**, Personal Representative of her Estate; and

WHEREAS, the said **JAMES M. CARPENTER, III**, is now acting as such Personal Representative; and

WHEREAS, to carry out his duties as Personal Representative under the provisions of the Estates and Trusts Article of the Annotated Code of Maryland (1974 ed.) these presents are executed.

NOW THEREFORE, THIS DEED WITNESSETH, That in consideration of **One Hundred Thirty-Eight Thousand and 00/100 ($138,000.00) DOLLARS**, the receipt of which is hereby acknowledged, the said **JAMES M. CARPENTER, III**, Personal Representative of the Estate of Dorothy V. Carpenter, Deceased, does hereby grant and convey unto the said **W. MARCUS LEVINSON and CINDI LYNN LEVINSON,** married persons, as tenants by the entireties, their assigns, and to the survivor of them and the personal representatives, heirs and assigns of the survivor, in fee simple, all that lot of ground situate in the Fourth District, Baltimore County, State of Maryland and described as follows, that is to say:

PARCEL NO. 1:

BEGINNING FOR THE SAME at a point in the center of a roadway 15 feet wide, now known as Black Forest Road, laid out parallel to Old Church Road, at the end of the third line of Lot No. 10, as shown on the unrecorded Plat of John C. Whitaker's land; running thence binding on the center of said road north 77 degrees 20 minutes east 112.50 feet to the center of Lot No. 10, thence for line of division along the center of Lot No. 10 south 15 degrees 25 minutes east 325 feet to Lot No. 2; thence for lines of division and binding on the center line of a 20 foot road as now laid out south 37 degrees 40 minutes east 59.08 feet and south 15 degrees 25 minutes east 246.15 feet to the center of Old Church Road; thence binding on the center of Old Church Road south 77 degrees 20 minutes west 10.01 feet to the west side of said 20 foot road; thence binding on the west side of said road north 15 degrees 25 minutes west 243.23 feet and north 37 degrees 40 minutes west 61.76 feet to Lot No. 10; thence binding on the division line between Lot No. 10 and Lots No. 1 and 2 south 77 degrees 20 minutes west 101.47 feet to a line of a parcel of land which by deed dated May 11, 1946, and recorded among the Land Records of Baltimore County in Liber R.J.S. No. 1455, folio 530, etc., was conveyed by John C. Whitaker to John C. Long; thence binding on said line north 15 degrees 25 minutes west 325 feet to the point of beginning.

MEZGER
MULY &
YATEMAN
ATTORNEYS AND
COUNSELLORS AT LAW
655 CRAIN HWY, S.E.
SUITE 200
ARNOLD FEDERAL BLDG.
GLEN BURNIE, MD 21061
(410) 766-9115

CBA
PET. EX.
No. 1

Being one-half of Lot No. Ten (10) and part of Lot No. Two (2) as shown on unrecorded Plat of John C. Whitaker's land.

SUBJECT to a right-of-way ten feet wide beginning at the end of the second line of the above described property and running thence northerly binding reversely on said second line 150 feet; thence westerly 10 feet, thence southerly parallel to said second described line and ten feet westerly therefrom 150 feet to the aforesaid Lot No. 2 shown on the above-referred to unrecorded Plat; thence easterly binding on Lot No. 2 ten feet to the place of beginning. Which ten foot right-of-way, together with a similar ten foot right-of-way adjoining to the east makes a twenty foot right of way to be used in common by the owner of this lot and the lot adjoining to the east.

The 20 foot roadway running from the south line of Lot No. 10 on the unrecorded Plat of John C. Whitaker's land to the center of Old Church Road is to be used in common by the owners and occupiers of the eastern half of Lot No. 10 and the western half of Lot No. 10 on said unrecorded plat and the lots adjoining said 20 foot right of way on the east and west shall also have the right to use the same in common with others entitled thereto.

PARCEL NO. 2:

BEGINNING FOR THE SAME at a point in the center of roadway 15 feet wide now known as Black Forest Road, laid out parallel to Old Church Road, and at the end of the second line of Lot No. 9 as shown on unrecorded Plat of John C. Whitaker's land; running thence reversely with this line south 15 degrees 25 minutes east 325 feet to the northernmost side of Lot No. 3; thence binding on the division line between Lot No. 10 and Lots No. 2 and No. 3 south 77 degrees 20 minutes west 101.47 feet to the east side of a 20 foot road as now laid out; thence binding on the east side of said road south 37 degrees 40 minutes east 56.40 feet and south 15 degrees 25 minutes east 249.07 feet to the center of Old Church Road; thence binding on the center of Old Church Road. South 77 degrees 20 minutes west 10.01 feet to the center of said 20 foot road; thence binding on the center of said road north 15 degrees 25 minutes west 246.15 feet and north 37 degrees 40 minutes west 59.08 feet to the centerline of the southernmost line of Lot No. 10; thence binding on the center of Lot No. 10, north 15 degrees 25 minutes west 325 feet to the center of Black Forest Road; thence binding on the center of said road north 77 degrees 20 minutes east 112.50 feet to the point of beginning.

BEING one-half of Lot No. 10 and part of Lot No. 2 as shown on unrecorded Plat of John C. Whitaker's land.

The 20 foot roadway running from the south line of Lot No. 10 on the unrecorded Plat of John C. Whitaker's land to the center of Old Church Road is to be used in common by the owners and occupiers of the eastern half of Lot No. 10 and the western half of Lot No. 10 on said unrecorded Plat, and the lots adjoining said 20 foot right of way on the east and west side shall also have the right to use the same in common with others entitled thereto.

THE IMPROVEMENTS THEREON being known as 602 A Church Road.

BEING the same lot of ground which by Deed dated April 2, 1969, and recorded among the Land Records of Baltimore County in Liber No. 4978, folio 094, was granted and conveyed from **Arlington Contractors, Inc.,** unto **James M. Carpenter, Jr. and**

MEZGER
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COUNSELLORS AT LAW
655 CRAIN HWY, S.E.
SUITE 200
ARUNDEL FEDERAL BLDG.
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(410) 766-9115

CBMUNPSEIOPVOU!DJSDVJJ!DPVSU!)Mboe!Sf dpset *!\NTB!DF!73.25359*!Cppl !TN!254: 4-!q/!1292/!Qsjoud e!1602503119/!Pojof
140190116/

Dorothy V. Carpenter, his wife; and **being** the same lot of ground which by Deed dated January 23, 1970, and recorded among the aforesaid Land Records in Liber No. 5068, Folio 109, was granted and conveyed from **Arlington Contractors, Inc.** unto **James M. Carpenter, Jr. and Dorothy V. Carpenter, his wife; Dorothy V. Carpenter** since departed this life on or about October 28, 1998; and **James M. Carpenter, Jr.,** her husband having predeceased her on or about December 19, 1991.

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

TO HAVE AND TO HOLD the said described lot of ground and premises to the said **W. MARCUS LEVINSON and CINDI LYNN LEVINSON**, married persons, as tenants by the entireties, their assigns, and to the survivor of them and the personal representatives, heirs and assigns of the survivor, in fee simple.

GRANTEES herein certify, under penalty of perjury, that the real property conveyed by this Deed will be occupied by **GRANTEES** as their principal residence. **GRANTEES** further certify that they are a first time home buyer in the State of Maryland.

WITNESS the hand and seal of the said Grantor.

WITNESS:

_____ _____(SEAL)
JAMES M. CARPENTER, III, Personal Representative of the Estate of Dorothy V. Carpenter

STATE OF MARYLAND, County of Baltimore, **to wit:**

I HEREBY CERTIFY, That on this 31st day of March in the year Two Thousand, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared **JAMES M. CARPENTER, III, Personal Representative of the ESTATE OF DOROTHY V. CARPENTER, Grantor,** known to me, or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing Deed to be his act, and in my presence signed and sealed the same.

In Witness Whereof, I hereunto set my hand and official seal.

_____
Notary Public

My commission expires:
1-28-2002

MEZGER
MULY &
YATEMAN
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COUNSELLORS AT LAW
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ARUNDEL FEDERAL BLDG.
GLEN BURNIE, MD 21061
(410) 766-9115

CBMJNPSEIDPVOUJIDJSDVJJIDPVSUI)Mboe!Sf dpset *!\NTB!DF!73.25359*!Cppl !TN!254: 4-Iq/!1293/!Qsjouf e!160250119/!P bjoof
140190116/

WITNESS the hand and seal of the said Grantor and Grantees.

WITNESS:

(As to Both)
LANCE I. YATEMAN

(SEAL)
W. MARCUS LEVINSON, Grantee

(SEAL)
CINDI LYNN LEVINSON, Grantee

STATE OF MARYLAND, County of Anne Arundel, to wit:

I HEREBY CERTIFY, That on this 31st day of March in the year Two Thousand, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared **W. MARCUS LEVINSON and CINDI LYNN LEVINSON, married persons, Grantees,** known to me, or satisfactorily proven to be the persons whose names are subscribed to the within instrument, and acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same.

In Witness Whereof, I hereunto set my hand and official seal.

Notary Public
LANCE I. YATEMAN

My commission expires:

IN ACCORDANCE WITH REAL PROPERTY SECTION 3-104 (f.), THIS IS TO CERTIFY THAT THE FOREGOING INSTRUMENT WAS PREPARED UNDER THE SUPERVISION OF THE UNDERSIGNED, AN ATTORNEY DULY ADMITTED TO PRACTICE BEFORE THE COURT OF APPEALS OF MARYLAND.

LANCE I. YATEMAN

MEZGER
MULY &
YATEMAN
ATTORNEYS AND
COUNSELLORS AT LAW
655 CRAIN HWY, S.E.
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CBM1HDSSIDEVOU?!DJSDVJJIDPVSUI)Mboe!Sf dpset *!\NTB!DF!73.25359*!Cppl !TN!254: 4-!q/!1294/!Qsjoufe!160250119/!Pofof
110/08/16/

033192 APR-5 00

0014393 184

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: BALTIMORE

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

Court Clerk Recording Validation

TRP FD SURE $	5.00
RECORDING FEE	20.00
RECORDATION T	690.00
TR TAX STATE	345.00
TOTAL	1,060.00
Rcpt # 69360	
BA04	
CR	Blk # 385
05, 2000	10:56 am

1 Type(s) of Instruments (☐ Check Box if Addendum Intake Form is Attached.)

X Deed	X Mortgage	Other	Other
Deed of Trust	Lease		

2 Conveyance Type Check Box

Improved Sale Arms-Length [1]	Unimproved Sale Arms-Length [2]	Multiple Accounts Arms-Length [3]	Not an Arms-Length Sale [9]

3 Tax Exemptions (if Applicable) Cite or Explain Authority

Recordation:
State Transfer:
County Transfer:

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only	
Purchase Price/Consideration	$ 138,000.00	Transfer and Recordation Tax Consideration	
Any New Mortgage	$ 131,000.00	Transfer Tax Consideration	$ 138,000.00
Balance of Existing Mortgage	$	X ( ) % =	$ 2,070.00
Other:	$	Less Exemption Amount −	$ 330.00
		Total Transfer Tax =	$ 1,740.00
Other:	$	Recordation Tax Consideration	$
		X ( ) per $500 =	$
Full Cash Value	$	TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 20.00	$ 20.00
Surcharge	$ 5.00	$ 5.00
State Recordation Tax	$ 690.00	$ 0
State Transfer Tax	$ 345.00	$ 0
County Transfer Tax	$ 1,740.00	$ 0
Other XXXXXXXXXXXX	$ 0	$ 0
Other Total Fees	$ 2,800.00	$ 25.00

Agent:
Tax Bill: —
C.B. Credit: —
Ag. Tax/Other: N —

6 Description of Property SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map XXXX	Parcel No.	Var. LOG ☐ (5)
04	0403000578, 1600000605	4978/094, 5068/109			

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR(3c)	Plat Ref.	SqFt/Acreage (4)
John C. Whitaker's Land	½ 10 & po 2				

Location/Address of Property Being Conveyed (2): 602A Church Road, Reisterstown, MD 21136

Other Property Identifiers (if applicable): | Water Meter Account No.:

Residential ☒ or Non-Residential ☐ | Fee Simple ☒ or Grount Rent ☐ | Amount:

Partial Conveyance? ☐ Yes ☐ No | Description/Amt. of SqFt/Acreage Transferred:

If Partial Conveyance, List Improvements Conveyed:

7 Transferred From

Doc. 1 - Grantor(s) Name(s)	Doc. 2 - Grantor(s) Name(s)
James M. Carpenter, Per. Rep of ESTATE OF DOROTHY V. CARPENTER	W. MARCUS LEVINSON
	CINDI LYNN LEVINSON
Doc. 1 - Owner(s) of Record, if Different from Grantor(s)	Doc. 2 - Owner(s) of Record, if Different from Grantor(s)

8 Transferred To

Doc. 1 - Grantee(s) Name(s)	Doc. 2 - Grantee(s) Name(s)
W. MARCUS LEVINSON	Arundel Federal Savings Bank
CINDI LYNN LEVINSON	

New Owner's (Grantee) Mailing Address: 602A Church Road, Reisterstown, MD 21136

9 Other Names to Be Indexed

Doc. 1 - Additional Names to be Indexed (Optional)	Doc. 2 - Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person
Name: Carl A. Muly, Esq.
Firm: MEZGER, MULY & YATEMAN
Address: 655 Crain Highway, S.E., Suite 200
Glen Burnie, MD 21061 Phone: (410) 766-9115

☒ Return to Contact Person
☐ Hold for Pickup
☐ Return Address Provided

11 IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information

X Yes ☐ No Will the property being conveyed be the grantee's principal residence?
☐ Yes X No Does transfer include personal property? If yes, identify:
X Yes ☐ No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Assessment Use Only - Do Not Write Below This Line

☐ Initial ☐ Additional Verification ☐ Agricultural Verification ☐ Whole ☐ Part ☐ Tran. Process Verification

Transfer Number: Date Received: Deed Reference: Assigned Property No.:

Year 19	19	Geo.	Map	Sub	Block
Land		Zoning	Grid	Plat	Lot
Buildings		Use	Parcel	Section	Occ. Cd.
Total		Town Cd.	Ex. St.	Ex. Cd.	

REMARKS:

Distribution: *White - Clerk's Office*
Canary - SDAT
Pink - Office of Finance
Goldenrod - Preparer
AOC-CC-300 (6/95)

PAID RECEIPT
140190811G/
CBMUNPS DATE 4/05/2000 09:10:41
REG WS02 CASHIER DDOL DMD DRAWER 2
DEPT 7 700 TRANSFER TAX
Receipt # 231055 OFLN
ACCOUNT NO. 0403000578
Receipt Tot 1,740.00
.00 CA
Baltimore County, Maryland

CASE NO. 07-210-A
" " 07-211-A PETITIONER'S EXHIBITS

1. DEED BETWEEN CARPENTER AND LEVINSON DATED 3/31/2000.

2 A. MAP IMPROVED LOT.
B MAP UNIMPROVED LOT

3. PLAN SHOWING R40 LOTS

5 ~~4~~ A-O PICTURES TAKEN 5/13/08
A- TOWARD CHURCH RD.
B- IMPROVED LOT TOWARD UNIMPROVED LOT.
C- " " " "
D- LOOKING AT HOUSE
E- IMPROVED LOOKING AT BOTH LOTS.
F- LOOKING AT SEPTIC SYSTEM
G- EXISTING HOUSE
H- IMPROV. AT REAR OF HOUSE
I- LOOKING AT SHED
J- WELL NEXT TO HOUSE
K- PLAYGROUND
L- IMPROVED LOOKING AT UNIMPROVE.
M- FRONT YARD AND UNIMPROVED LOT.
N. - " " " " "
O- SHED AND CONCRETE PAD.

4. PLAT TO ACCOMPANY PETITION

6. TAX MAP - SIDAT

APPEAL

Petition for Variance
602A Church Road
Southwest side of Church Road, 340 feet southeast of Blackforest Road
4th Election District – 4th Councilmanic District
Legal Owner(s): W. Marcus and Cindi Lynn Levinson

Case No.: 07-210-A

✓ Petition for Variance (November 8, 2006)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (November 20, 2006)

✓ Certification of Publication (December 28, 2006)

✓ Certificate of Posting (December 7, 2006) by Sandra Golf (Certificate with 07-211-SPHA)

✓ Entry of Appearance by People's Counsel (November 15, 2006)

o Petitioner(s) Sign-In Sheet – None

o Protestant(s) Sign-In Sheet – None

✓ Citizen(s) Sign-In Sheet – 1 Sheet

✓ Zoning Advisory Committee Comments

Petitioners' Exhibit
- ✓ 1. Plat to accompany Petition for Variance
- ✓ 2. Plat to accompany Petition for Variance and Special Hearing
- 3. Not located in file
- ✓ 4. Property map
- ✓ 5. A – Real Property Search: 602A Church Road
- ✓ B – Real Property Search: 602A Blackforest Road
- ✓ 6. A – D Photographs
- ✓ 7. Photograph

Protestants' Exhibits: None

Miscellaneous (Not Marked as Exhibit)
- ✓ 1. Deed of property
- ✓ 2. Petitioner's Post Hearing Memorandum

✓ Deputy Zoning Commissioner's Order (DENIED in accordance w/order – March 15, 2007)

✓ Notice of Appeal received on April 16, 2007 from Lawrence M. Hammond

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Lawrence M. Hammond
W. Marcus and Cindi Lynn Levinson

date sent May 8, 2007, amf

RECEIVED
MAY 18 2007
BALTIMORE COUNTY
BOARD OF APPEALS

CASE NO 07-210-A
" " 07-211-A PEOPLE'S COUNSEL EXHIBITS

1 DECA DATED 5/29/68

2. DECA DATED 4/2/69

3 DECA DATED 1/23/70

4. BALTO. COUNTY ZONING REGS.

5. MEMO DATED 5/13/08 ZONING HISTORY

6 BC ZONING MAP

7. AERIAL PHOTO OF THE AREA

T-2
THE TITLE GUARANTEE COMPANY
(Individual Form)

App. H- 63958

This Deed, Made this 29th day of May, in the year one thousand nine hundred and sixty-eight, by and between

WILLIAM T. HEILAND, JR. and CAROLYN D. HEILAND, his wife, of Baltimore County, State of Maryland, parties of the first part, Grantors; and

ARLINGTON CONTRACTORS, INC., a corporation of the State of Maryland, party of the first part, Grantee.

Witnesseth: that in consideration of the sum of Five Dollars, and other valuable considerations, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant, convey, and assign unto said Grantee, its successors and assigns, in fee simple,

all those lot(s) of ground situate in the Fourth Election District of Baltimore County, in the State of Maryland, and described as follows, that is to say:

BEGINNING for the first at a point in the middle of the Old Church Road and at the end of three hundred and ninety feet on the second line of the whole tract, and running thence reversely with the third line of Lot Number 3, on an unrecorded Plat of John C. Whitaker's land, (1) North fifteen degrees twenty-five minutes West three hundred feet to a stake on a line of Lot Number 10, on said unrecorded Plat; thence with this lot and continuing with Lot Number 9, on said unrecorded Plat, (2) North seventy-seven degrees twenty minutes East, ninety feet to a stake; (3) South fifteen degrees twenty-five minutes East, three hundred feet to the middle of the aforesaid road and passing a stake twenty feet short of the end thereof; thence with the said road (4) South seventy-seven degrees twenty minutes West, ninety feet to the beginning, and containing 26,969 square feet of land.

BEING Lot Number 3 on an unrecorded Plat of John C. Whitaker's land.

BEGINNING for the second at a point in the middle of a roadway fifteen feet wide laid out parallel with Old Church Road, and at the end of the second line of Lot Number 9 on an unrecorded Plat of John C. Whitaker's land; thence reversely with this line South fifteen degrees twenty-five minutes East three hundred and twenty-five feet to a stake on a line of Lot Number 2 on an unrecorded Plat of John C. Whitaker's land; thence reversely with this line and continuing reversely with a line of Lots Numbers 2 and 1 on said unrecorded Plat South seventy-seven degrees twenty minutes West two hundred and twenty-five feet to a stake on a line of parcel previously conveyed by John C. Whitaker to John C. Long by Deed dated May 11, 1946 and recorded among the Land Records of Baltimore County in Liber R.J.S. No. 1455 folio 530 etc.; thence with this line, North fifteen degrees twenty-five minutes West three hundred and twenty-five feet to a stake in the middle of the aforesaid roadway fifteen feet wide; thence with the middle thereof North seventy-seven degrees twenty minutes East two hundred and twenty-five feet to the beginning, and containing 73,040 square feet of land, more or less.

BEING Lot Number 10 on unrecorded Plat of John C. Whitaker's land.

BEGINNING for the third in the middle of Old Church Road and at the end of three hundred feet on the second line of the whole tract, and running thence reversely with the third line of Lot Number 1, on an unrecorded Plat of John C. Whitaker's land, North fifteen degrees twenty-five minutes West, three hundred feet to a stake on a

6027A

CBA
PC
No. 1

MD 3 1 3 JUN 3 30.00 MSC

T COURT (Land Records) [MSA CE 62-4735] OTG 4880, p. 0341. Printed 02/26/2008. Online 10/31/2006.

line of Lot Number 10, on said unrecorded Plat, and passing a stake at the end of twenty feet thereon; thence with Lot Number 10, on said unrecorded Plat, North seventy-seven degrees twenty minutes East ninety feet to a stake; South fifteen degrees twenty-five minutes East three hundred feet to the middle of the aforesaid road and passing a stake twenty feet short of the end thereof; thence with the said road South seventy-seven degrees twenty minutes West ninety feet to the place of beginning. Containing 26,969 square feet of land.

BEING Lot Number 2 on said unrecorded Plat of John C. Whitaker's land.

BEING the same three lots of ground which by Deed dated June 21, 1967 and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 4772 folio 505, were granted and conveyed by Amelia E. Heiland, widow, unto the within named Grantors, in fee simple.

A CIRCUIT COURT (Land Records) [MSA CE 62-4735] OTG 4880, p. 0342, Printed 02/26/2008, Online 10/31/2006.

Together with the buildings and improvements thereupon; and the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or in anywise appertaining.

To have and to hold the said described lot(s) of ground and premises, unto and to the use of the said Grantee, its successors and assigns, in fee simple.

And the said Grantor covenants to warrant specially the property hereby granted and conveyed, and to execute such further assurances of said land as may be requisite.

Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

Witness the hand(s) and seal(s) of the said grantor(s):

WITNESS:

James J. Griffin
JAMES J. GRIFFIN

William T. Heiland, Jr. [Seal]
William T. Heiland, Jr.

James J. Griffin
JAMES J. GRIFFIN

Carolyn D. Heiland [Seal]
Carolyn D. Heiland

State of Maryland, BALTIMORE CITY, TO WIT:

I HEREBY CERTIFY, that on this 29th day of May, 1968, before me, a Notary Public of the State aforesaid, personally appeared

WILLIAM T. HEILAND, JR. and CAROLYN D. HEILAND, his wife,

known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument, who signed the same in my presence, and acknowledged that they executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

JAMES JOSEPH GRIFFIN NOTARY PUBLIC Baltimore County, Md.

James Joseph Griffin
JAMES JOSEPH GRIFFIN Notary Public
My commission expires: 6/30/69

Rec'd for record JUN 3 1968 at 1:45 P.M.
Per Orville T. Gosnell, Clerk
Mail to: Title Guarantee Co.
Receipt No. 190001 $ 7.50

IT COURT (Land Records) (MSA CE 62-4735) OTG 4880, p. 0343. Printed 02/26/2008. Online 10/31/2006.

Parcel 1

602A

THIS DEED, Made this 2nd day of ~~March~~ April, in the year one thousand nine hundred and sixty-nine, by and between ARLINGTON CONTRACTORS, Inc., a body corporate of the State of Maryland, of the first part, and JAMES M. CARPENTER, JR. and DOROTHY V. CARPENTER, his wife, of the second part.

WITNESSETH, that in consideration of the sum of Five ($5.00) Dollars and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said Arlington Contractors, Inc., a body corporate, does grant and convey unto the said James M. Carpenter, Jr. and Dorothy V. Carpenter, his wife, as tenants by the entireties, their assigns, the survivor of them and the survivor's heirs and assigns, in fee simple, all that lot or parcel of ground situate, lying and being in the Fourth Election District of Baltimore County, State of Maryland, and described as follows, that is to say:-

BEGINNING for the same at a point in the center of a roadway 15 feet wide now known as Black Forest Road, laid out parallel to Old Church Road, at the end of the third line of Lot No. 10 as shown on the unrecorded Plat of John C. Whitaker's land; running thence binding on the center of said road north 77 degrees 20 minutes east 112.50 feet to the center of Lot No. 10, thence for line of division along the center of Lot No. 10 south 15 degrees 25 minutes east 325 feet to Lot No. 2; thence for lines of division and binding on the center line of a 20 foot road as now laid out south 37 degrees 40 minutes east 59.08 feet and south 15 degrees 25 minutes east 246.15 feet to the center of Old Church Road; thence binding on the center of Old Church Road south 77 degrees 20 minutes west 10.01 feet to the west side of said 20 foot road; thence binding on the west side of said road north 15 degrees 25 minutes west 243.23 feet and north 37 degrees 40 minutes west 61.76 feet to Lot No. 10; thence binding on the division line between Lot No. 10 and Lots No. 1 and 2 south 77 degrees 20 minutes west 101.47 feet to a line of a parcel of land which by deed dated May 11, 1946 and recorded among the Land Records of Baltimore County in Liber R.J.S. No. 1455, folio 530 etc., was conveyed by John C. Whitaker to John C. Long; thence binding on said line north 15 degrees 25 minutes west 325 feet to the point of beginning.

Being one-half of Lot No. Ten (10) and part of Lot No. Two (2) as shown on unrecorded Plat of John C. Whitaker's land.

Subject to a right-of-way ten feet wide beginning at the end of the second line of the above described property and running thence northerly binding reversely on said second line 150 feet;

3 129.75

602A

CBA PC No. 2

BA CIRCUIT COURT (Land Records) [MSA CE 62-4633] OTG 4978, p. 0094. Printed 02/25/2008. Online 11/27/2006.

thence westerly 10 feet, thence southerly parallel to said second described line and ten feet westerly therefrom 150 feet to the aforesaid Lot No. 2 shown on the above referred to unrecorded Plat; thence easterly binding on Lot No. 2 ten feet to the place of beginning. Which ten foot right-of-way, together with a similar ten foot right-of-wayadjoining to the east makes a twenty foot right of way to be used in common by the owner of this lot and the lot adjoining to the east.

The 20 foot roadway running from the south line of lot No. 10 on the unrecorded Plat of John C. Whitaker's land to the center of Old Church Road is to be used in common by the owners and occupiers of the eastern half of Lot No. 10 and the western half of Lot No. 10 on said unrecorded plat and the lots adjoining said 20 foot right of way on the east and west shall also have the right to use the same in common with others entitled thereto.

BEING part of the property which by deed dated May 29, 1968 and recorded among the Land Records of Baltimore County in Liber OTG 4880, folio 341 was granted and conveyed by William T. Heiland, Jr. and Carolyn D. Heiland, his wife, unto Arlington Contractors, Inc., a body corporate, within Grantor.

TOGETHER with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging or anywise appertaining.

TO HAVE AND TO HOLD the said lot of ground and premises, above described and mentioned and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said James M. Carpenter, Jr. and Dorothy V. Carpenter, his wife, as tenants by the entireties, their assigns, the survivor of them and the survivor's heirs and assigns, in fee simple.

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

COURT (Land Records) (MSA CE 62-4833) OTG 4978, p. 0095. Printed 02/25/2008. Online 11/27/2006.

WITNESS the hand of George E. Robert, President and duly authorized agent of Arlington Contractors, Inc., a body corporate, within grantor, and its corporate seal hereto affixed, both duly attested:

Test:

Martin J. Smith

ARLINGTON CONTRACTORS, INC.

bu George E. Robert
George E. Robert, President

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I Hereby Certify that on this 2nd day of April, 1969, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared George E. Robert, President and duly authorized agent of Arlington Contractors, Inc., a body corporate, within grantor, and he acknowledged the foregoing Deed to be the act of said body corporate.

As Witness my hand and Notarial Seal.

MARTIN J. SMITH NOTARY PUBLIC BALTO. CO. MD.

Martin J. Smith
Notary Public

Rec'd for record APR 3 1969 at 10 56 AM
Per Orville T. Gosnell, Clerk
Mail to Smith Baltimore Md
Receipt No. 29206 2 $ 10.50

A CIRCUIT COURT (Land Records) [MSA CE 62-4833] OTG 4978, p. 0096. Printed 02/25/2008. Online 11/27/2006.

Parcel 2

602A

THIS DEED, Made this 23rd day of JANUARY in the year One Thousand Nine Hundred and ~~Sixty-nine~~ SEVENTY, by and between ARLINGTON CONTRACTORS, INC., a body corporate of the State of Maryland, of the first part, and JAMES M. CARPENTER, JR. and DOROTHY V. CARPENTER, his wife, of the second part.

WITNESSETH, that in consideration of the sum of Five ($5.00) Dollars and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said Arlington Contractors, Inc., a body corporate, does grant and convey unto the said James M. Carpenter, Jr. and Dorothy V. Carpenter, his wife, as tenants by the entireties, their assigns, the survivor of them and the survivor's heirs and assigns, in fee simple, all that lot or parcel of ground situate, lying and being in the Fourth Election District of Baltimore County, State of Maryland, and described as follows, that is to say:

BEGINNING for the same at a point in the center of roadway 15 feet wide now known as Black Forest Road, laid out parallel to Old Church Road, and at the end of the second line of Lot No. 9 as shown on unrecorded Plat of John C. Whitaker's land; running thence reversely with this line south 15 degrees 25 minutes east 325 feet to the northernmost side of Lot No. 3; thence binding on the division line between Lot No. 10 and Lots No. 2 and No. 3 south 77 degrees 20 minutes west 101.47 feet to the east side of a 20 foot road as now laid out; thence binding on the east side of said road south 37 degrees 40 minutes east 56.40 feet and south 15 degrees 25 minutes east 249.07 feet to the center of Old Church Road; thence binding on the center of Old Church Road. South 77 degrees 20 min. west 10.01 feet to the center of said 20 foot road; thence binding on the center of said road north 15 degrees 25 minutes west 246.15 feet and north 37 degrees 40 minutes west 59.08 feet to the center line of the southernmost line of Lot No. 10; thence binding on the center of Lot No. 10, north 15 degrees 25 minutes west 325 feet to the center of Black Forest Road; thence binding on the center of said road north 77 degrees 20 minutes east 112.50 feet to the point of beginning.

BEING one-half of Lot No. 10 and part of Lot No. 2 as shown on unrecorded Plat of John C. Whitaker's land.

The 20 foot roadway running from the south line of Lot No. 10 on the unrecorded Plat of John C. Whitaker's land to the center of Old Church Road is to be used in common by the owners and occupiers of the eastern half of Lot No. 10 and the western half of Lot. No. 10 on said unrecorded Plat, and the lots adjoining said 20 foot

$ 5.00 REC.
STATE PROPERTY TRANSFER JAN 26 '70 CLERK

CBA PC No. 3

COURT (Land Records) [MSA CE 62-4923] OTG 5068, p. 0109. Printed 05/01/2008. Online 12/13/2005.

right of way on the east and west shall also have the right to use the same in common with others entitled thereto.

BEING part of the property which by deed dated May 29, 1968 and recorded among the Land Records of Baltimore County in Liber OTG 4880, folio 341 was granted and conveyed by William T. Heiland, Jr. and Carolyn D. Heiland, his wife, unto Arlington Contractors, Inc., a body corporate, within Grantor.

TOGETHER with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging or anywise appertaining.

TO HAVE AND TO HOLD the said lot of ground and premises, above described and mentioned and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said James M. Carpenter, Jr. and Dorothy V. Carpenter, his wife, as tenants by the entireties, their assigns, the survivor of them and the survivor's heirs and assigns, in fee simple.

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

WITNESS the hand of George E. Robert, President and duly authorized agent of Arlington Contractors, Inc., a body corporate, within grantor, and its corporate seal hereto affixed, both duly attested:

TEST:

Martin J. Smith

ARLINGTON CONTRACTORS, INC.

By George E. Robert (SEAL)
George E. Robert, President

BA CIRCUIT COURT (Land Records) [MSA CE 62-4923] OTG 5068, p. 0110. Printed 05/01/2008. Online 12/13/2005.

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 23rd day of JANUARY, ~~1969~~ 1970, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared George E. Robert, President and duly authorized agent of Arlington Contractors, Inc., a body corporate, within grantor, and he acknowledged the foregoing Deed to be the act of said body corporate.

AS WITNESS my hand and Notarial Seal.

Martin J. Smith
Notary Public

MARTIN J. SMITH NOTARY PUBLIC BALTO. CO., MD.

Rec'd for record JAN 26 1970 at 2:12 M
Per Orville T. Cosnell, Clerk
Mail to Smith, Bottomley, Smith
Receipt No. 28670 $ 10.50

COURT (Land Records) [MSA CE 62-4923] OTG 5068, p. 0111. Printed 05/01/2008. Online 12/13/2005.

Interoffice Memorandum, Baltimore County

May 13, 2008

To: Carole S. Demilo, Deputy People's Counsel
for Baltimore County

From: David Duvall, Planner II, Zoning Review RDD

Subject: Zoning History
602 and 602-A Church Road, Case # 07-210-A and 07-211-A

In response to your query on the above address the following has been determined.

The subject properties are currently zoned Resource Conservation Residential (RC 5) as shown on Baltimore County zoning maps 057B2 and NW 13 K (copy enclosed). A search of our earlier zoning maps show the area has gone the through numerous classification changes since the County's incorporation. Beginning with the 1945 map the premises were designated "A" residential. The 1955 map shows R-40; 1971 shows Residential Deferred Planning (RDP). The 1976 map displays a zone of Resource Conservation, Deferral of Planning and Development (RC3) and stayed that designation for many quadrennial cycles. Finally, in 1988 it changed to its current zone.

I hope this answers your question. For more information, I can be reached at extension 3391.

CBA
PC
NO. 5

BALTIMORE COUNTY

ZONING REGULATIONS

ADOPTED BY

COUNTY COMMISSIONERS

OF

BALTIMORE COUNTY

March 30, 1955, in accordance with Title 30, Section 532 (c) of the Code of Public Local Laws of Baltimore County (1955 Edition).

1955

Michael J. Birmingham
President

Robert B. Hamill
Augustine J. Muller
County Commissioners of Baltimore County

Francis T. Peach
County Solicitor

George M. Berry
Deputy Solicitor

Wilsie H. Adams
Zoning Commissioner

OBA
PC
No. 7

R. 40 and R. 20

Residence Zone, One Family

ARTICLE 2—ZONES: USE, HEIGHT, AND AREA REGULATIONS

R. 40 Zone—Residence, One-Family

Section 200—USE REGULATIONS

The following uses only are permitted:

200.1—One-family detached dwellings.

200.2—Conversion of a one-family dwelling as conditioned in Section 402.

200.3—Churches and other buildings for religious worship, including church schools and private schools.

200.4—Trailers, as limited by Section 415.

200.5—Country club, golf course, or other outdoor recreation clubs, including club house, and quasi-public camps, including day camps, but no such use shall be located on less than 3 acres, and no building or parking lot thereon shall be located within 60 feet of any property line.

200.6—Community building, swimming pool, or other structural or land use devoted to civic, social, recreational and educational activities of the community.

2/30/55 to 9/19/70 Ord. 100 1970

200.7—Offices of a doctor or dentist but with no hospital facilities, and offices or studios of a lawyer, architect, engineer, or artist, when these or offices of similar professions are situated in the same dwelling used by any of the foregoing persons as his residence. Not more than 25% of the floor area of the dwelling shall be used for offices or studios; not more than one non-resident professional associate and two non-resident employees shall be permitted. Signs are prohibited except as noted in Section 413.

200.8—Home occupations, as heretofore defined in Section 101, provided that no sign shall be displayed except as noted in Section 413.

200.9—Accessory buildings and uses as limited by Section 400.

200.10—Hospitals, Class A, as defined in Section 101 and as limited by Section 407.

200.11—Public utility uses as follows:

a. Telephone and telegraph lines.

b. Electric light and power lines, including transformers and transformer banks, when located on poles, on or contiguous

to public highways, alleys, rear lot lines, railroad rights-of-way or if carrying less than 35,000 volts.

c. Conduits, cables; gas, sewer, storm drain, and water mains—all located underground.

d. Railroad.

200.12—Farming, as defined in Section 101 and as conditioned in Section 404.

200.13—Signs in accordance with the provisions of Section 413.

200.14—Excavations, uncontrolled.

200.15—Special Exceptions: The following uses when permitted as Special Exceptions (see Sections 270 and 502):

Airport;
Boarding or rooming houses;
Boat yard and/or marine railway;
Cemetery (see Section 401);
Conservatory, music and the arts;
Convalescent home;
Conversion of a dwelling into a tea room or restaurant as conditioned in Section 402;
Excavations, controlled (see Section 403);
Funeral establishment;
Golf driving range, miniature golf, and baseball batting range;
Hospital, Class B (see Section 407);
Kennel, but not on a lot of less than 3 acres, and not closer than 50 feet to a property line;
Laboratory;
Poultry, commercial killing of, but only on a farm (see Section 404);
Private colleges, nursery or dancing schools, dormitories, and fraternity and sorority houses, but excluding business and trade schools;
Public utility uses other than those noted in Section 200.11 (see Section 411);
Race track, commercial;
Radio studio;
Riding stable, commercial;
Sanitary landfill (see Section 412);
Shooting range;
Television studio;

Theatre, drive-in;
Tourist home;
Trailer park;
Volunteer fire company;
Wireless transmitting and receiving structure.

Section 201—HEIGHT REGULATIONS

No building shall exceed a height of 35 feet or 3 stories, except as provided in ARTICLE 3.

Section 202—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

202.1—Lot Area and Width—Each principal building hereafter erected shall be located on a lot having an area of not less than 40,000 square feet and a width at the front building line of not less than 150 feet, except that for two or more lots in the same ownership, and in the same tract, a minimum lot area of 30,000 square feet is permitted if the average of all the lot sizes in the same ownership and in the same tract equals 40,000 square feet or more. A wedge shaped lot at the end of a cul-de-sac street may have a width at the front building line of not less than 100 feet (see Section 304).

202.2—Front Yard—For dwellings, the front building line shall be not less than 50 feet from the front lot line and not less than 75 feet from the center line of the street; for other principal buildings—70 feet from the front lot line and not less than 95 feet from the center line of the street.

202.3—Side Yards—For dwellings, 20 feet wide for one side yard and not less than 50 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 50 feet from the side lot line and not less than 75 feet from the center line of the street; for other principal buildings—40 feet wide, except that for a corner lot the building line along the side street shall be not less than 65 feet from the side lot line and not less than 90 feet from the center line of the street.

202.4—Rear Yard—50 feet deep.

BALTIMORE COUNTY

ZONING REGULATIONS

1969

0331

This is the property of:

Name _____

Address _____

_____

Phone _____

ARTICLE 2—ZONES AND DISTRICTS: USE, HEIGHT AND AREA REGULATIONS.[1/]
R.40 Zone—Residence, One-Family

Section 200—USE REGULATIONS

The following uses only are permitted:

200.1—One-family detached dwellings.

200.2—Conversion of a one-family dwelling as conditioned in Section 402.

200.3—Churches and other buildings for religious worship, including church schools and private schools. [Revised by Resolution, August 23, 1955]

200.4—Trailers, as limited by Section 415.

[200.5—"Country club, . . ." etc. deleted by Bill No. 64, 1963]

200.5-1/2—Research institutes, as defined in Section 101, if located on a site of 15 acres or more and if in compliance with Section 418.2. [Bill No. 76, 1964]

[200.6—"Community building, . . ." etc. deleted by Bill No. 64, 1963]

200.7—Offices of a doctor or dentist but with no hospital facilities, and offices or studios of a lawyer, architect, engineer, or artist, when these or offices of similar professions are situated in the same dwelling used by any of the foregoing persons as his residence. Not more than 25% of the floor area of the dwelling shall be used for offices or studios; not more than one non-resident professional associate and two non-resident employees shall be permitted. Signs are prohibited except as noted in Section 413.

200.8—Home occupations, as heretofore defined in Section 101, provided that no sign shall be displayed except as noted in Section 413.

200.9—Accessory buildings and uses as limited by Section 400.

200.10—Hospitals, Class A, as defined in Section 101 and as limited by Section 407.

200.11—Public utility uses as follows:

a. Telephone and telegraph lines.
b. Electric light and power lines, including transformers and transformer banks, when located on poles, on or contiguous to public highways, alleys, rear lot lines, railroad rights-of-way or if carrying less than 35,000 volts.
c. Conduits, cables; gas, sewer, storm drain, and water mains—all located underground.
d. Railroad.

1/ Title changed by Bill No. 40, 1967.

Section 201—HEIGHT REGULATIONS

No building shall exceed a height of 35 feet or 3 stories, except as provided in ARTICLE 3.

Section 202—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

202.1—Lot Area and Width—Each principal building hereafter erected shall be located on a lot having an area of not less than 40,000 square feet and a width at the front building line of not less than 150 feet, except that for two or more lots in the same ownership and in the same tract a minimum lot area of 30,000 sq. ft. is permitted if the average of all the lot sizes in the same ownership and in the same tract equals 40,000 sq. ft. or more. A wedge-shaped lot at the end of a cul-de-sac street may have a width at the front building line of not less than 100 ft. (see Section 304). [Revised by Resolution, November 21, 1956]

202.1.1—In a cluster subdivision a minimum lot area of 25,000 square feet is permitted, provided that the average area of all lots in the subdivision equals at least 30,000 square feet and that the total area in residential lots plus the area of the local open space tract(s) equals or exceeds the number of lots multiplied by 40,000 square feet. In such subdivision not more than 75 per cent of the lots may be less than 30,000 square feet in area and the minimum permitted width at the front building line is 100 feet. [Bill No. 106, 1963]

202.2—Front Yard—For dwellings, the front building line shall be not less than 50 feet from the front lot line and not less than 75 feet from the center line of the street; for other principal buildings—70 feet from the front lot line and not less than 95 feet from the center line of the street.

202.3—Side Yards—For dwellings, 20 feet wide for one side yard and not less than 50 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 50 feet from the side lot line an not less than 75 feet from the center line of the street; for other principal buildings—40 feet wide, except that for a corner lot the building line along the side street shall be not less than 65 feet from the side lot line and not less than 90 feet from the center line of the street.

202.4—Rear Yard—50 feet deep.

BALTIMORE COUNTY ZONING REGULATIONS

AS AMENDED THROUGH OCTOBER 10, 1974

1975 EDITION

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

TOWSON, MARYLAND

ARTICLE 1A—RURAL AND RURAL-SUBURBAN LOW-INTENSITY ZONES
[Bill No. 100, 1970.]

Section 1A00—R.D.P. ZONES (RURAL: DEFERRED-PLANNING). [Bill No. 100, 1970.]

1A00.1—General Provisions. [Bill No. 100, 1970.]

1.[1] Purpose. The R.D.P. zoning classification is established, pursuant to the legislative findings set forth above,[2] in order to:

a. Prevent untimely urban development of relatively open rural land; and

b. Foster conditions favorable to agriculture and other low-intensity uses appropriate in rural areas, considering both the magnitude of total land acreage needed for such uses and the current prospective needs for developable urban land.

[Bill No. 100, 1970.]

2. Intent as to application of R.D.P. zoning classification to property or removal therefrom. It is intended:

a. That rural land shall be classified within R.D.P. zones unless the Capital Budget and Five-Year Capital Program of Baltimore County and duly adopted official Baltimore County master plans, including the "county plan" required under Article 43, Section 387C of the Annotated Code of Maryland, 1957 (1965 Replacement Volume) as amended, all consistently indicate that such land is to be serviced by public sewerage and water-supply systems and, in the case of those said documents which determine the timing of construction, also consistently provide for the adequacy and availability of service to said land by such systems within a period of six years after the time of consideration with respect to zoning classification; provided further, however, that such nonserviced land as is specifically herein described (in this Subparagraph 3[3] or other provisions in these regulations) as being appropriately otherwise classified shall also be excepted from the category of land which shall be classified as R.D.P.;

b. That land classified as R.D.P. shall not be reclassified (rezoned) until such time as the documents hereinabove noted have been officially changed or replaced in kind and thereby then indicate possible appropriateness of reclassification under the criteria hereinbefore stated;

---

1. *The line designating this subparagraph and those immediately following as parts of a Paragraph "A" was deleted from Bill No. 100, 1970 by amendment after introduction.*
2. *Findings deleted from Bill No. 100, 1970 by amendment after introduction.*
3. *Now Subparagraph 2, as a result of amendment of Bill No. 100, 1970 after introduction.*

11. Golf driving ranges, miniature-golf ranges, or baseball-batting ranges.
12. Helistops.
13. Marinas.
14. Public-utility uses not permitted as of right.
15. Residential art salons (see Section 402C).
16. Riding stables (commercial or noncommercial).
17. Sanitary landfills (see Section 412).
18. Shooting ranges.
19. Volunteer-fire-company facilities.
20. Wireless transmitting and receiving structures, except that a radio antenna in conjunction with transmitting and receiving facilities used by a resident amateur radio operator possessing an amateur radio operator's license issued by the Federal Communications Commission shall be considered an accessory structure or, if attached to another structure, an accessory use, and, as such, is permitted without a special exception, provided: (a) that if it is an accessory structure, it shall be subject to the provisions of Section 400; (b) that if it is a rigid-structure antenna, it shall be no higher than 100 feet or the horizontal distance to the nearest property line, whichever is less, above grade level, and no supporting structure thereof shall be closer than 50 feet to any property line; and, further, (c) that it does not extend closer to the street on which the lot fronts than the front building line
21. Large-scale unit developments, as provided in Section 430

1A00.3—Height and Area Regulations. [Bill No. 100, 1970.]

A. Height. No structure in an R.D.P. zone shall exceed a height of 35 feet, except as otherwise specifically provided in these Zoning Regulations (see Section 300). [Bill No. 100, 1970.]

B. Area Regulations. [Bill No. 100, 1970.]

1. Lot Area. No lot less than 1 acre in net area shall be hereafter created in an R.D.P. zone, subject to attaining percolation tests satisfactory to the Baltimore County Department of Health and conforming to the applicable health requirements. [Bill No. 100, 1970.]

2. Minimum Linear Dimension. Except as otherwise provided in Subparagraph 3, below, the minimum linear dimension of any lot hereafter created in an R.D.P. zone shall be 150 feet. For the purposes of these regulations, the minimum linear dimension of any lot shall be the diameter of the largest circle in a horizontal plane which may be inscribed within the lot boundaries. [Bill No. 100, 1970.]

3. The minimum distance between any building in an R.D.P. zone and any lot line other than a street line shall be 50 feet; the minimum distance between the building and the center line of any street shall be 75 feet. [Bill No. 100, 1970.]

BALTIMORE COUNTY ZONING REGULATIONS

AS AMENDED THROUGH OCTOBER 29, 1981

1981 EDITION

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

TOWSON, MARYLAND

Section 1A04—R. C. 5 (RURAL-RESIDENTIAL) ZONE [Bill No. 98-75]

1A04.1—General Provisions. [Bill No. 98-75]

A. Legislative Statement of Findings [Bill No. 98-75]

1. Declaration of findings. It is found:

a. That the rural-residential development that has occurred in Baltimore County heretofore has been of a scattered and generally disorderly nature; [Bill No. 98-75]

b. That this form of development constitutes a wasteful use of land and is fiscally expensive to serve with respect to the provision of basic services; [Bill No. 98-75]

c. That in some cases lot sizes are inadequate to assure long term adequacy of on-lot sewer and water systems; [Bill No. 98-75]

d. That unless measures are implemented to assure more rational growth patterns, including adequate lot size, undue financial hardships will be placed on Baltimore County and the life, safety and general welfare of the citizens of the County will be adversely affected; [Bill No. 98-75]

e. That specific areas which are highly suitable for rural-residential development do exist; and [Bill No. 98-75]

f. That these areas are adequate to accommodate anticipated future growth in the rural area and that future growth should be directed to these areas. [Bill No. 98-75]

B. Purpose. The R. C. 5 zoning classification is established pursuant to the legislative findings above, in order to: [Bill No. 98-75]

1. Provide for rural-residential development in suitable areas in which basic services are not anticipated. [Bill No. 98-75]

2. Eliminate scattered and generally disorderly patterns of future rural-residential development. [Bill No. 98-75]

3. Assure that encroachments onto productive or critical natural resource areas will be minimized. [Bill No. 98-75]

4. Provide a minimum lot size which is sufficient to provide adequate area for the proper functioning of on-lot sewer and water systems. [Bill No. 98-75]

1A04.3-Height and area regulations. [Bill No. 98, 1975.]

A. Height regulation. No structure hereafter erected in an R.C.5 zone shall exceed a height of 35 feet, except as provided under Section 300. [Bill No. 98, 1975.]

B. Area regulations. [Bill No. 98, 1975.]

1. Lot area; density control. A lot having an area of less than 1 acre may not be created in an R.C.5 zone. The maximum gross residential density of a lot of record is 0.667 dwellings per acre. [Bill No. 98, 1975; No. 178, 1979.]

[2. Minimum diametral dimension. Deleted by Bill No. 178, 1979.]

3. Building setbacks. Any principal building hereafter constructed in an R.C. 5 zone shall be situated at least 75 feet from the centerline of any street and at least 50 feet from any lot line other than a street line, except as otherwise provided in Paragraph 5, below. [Bill No. 98, 1975.]

4. Coverage. No more than 15 percent of any lot in an R.C.5 zone may be covered by buildings, except as otherwise provided in Paragraph 5, below. [Bill No. 98, 1975.]

5. Exceptions for certain record lots. Any existing lot or parcel of land with boundaries duly recorded among the Land Records of Baltimore County with the approval of the Baltimore County Office of Planning and Zoning on or before the effective date of these zoning regulations and not part of an approved subdivision that cannot meet the minimum standards as provided within the zone may be approved for residential development in accordance with the standards prescribed in force at the time of the lot recordation. [Bill No. 98, 1975.]

6. Dwellings per lot. No more than one dwelling is permitted on any lot in an R.C. 5 zone. But not excluding additional dwellings for bona fide tenant farmers. [Bill No. 98, 1975.]

1A04.4-Life care or continuing care facilities-special provisions. [Bill No. 6, 1984.]

A. Notwithstanding contrary provisions contained in these regulations, life care or continuing care facilities are subject to the following provisions: [Bill No. 6, 1984.]

1. May only be located on a site containing a minimum of 450 acres. To obtain the required acreage, property zoned R.C.2 may be combined with property zoned R.C.5. The entire building envelope of the facility must be located in the R.C.5 portion of the tract and the building envelope is limited to a maximum of 12.5% of the gross acreage (Building Envelope Site) [Bill No. 6, 1984.]

2. Density Control. A maximum of 5.5 dwelling units per acre of building envelope site is permitted. [Bill No. 6, 1984.]

3. Parking. At least one (1) usable offstreet parking space must be provided for each 2 dwelling units. [Bill No. 6, 1984.]

4. No part of any building shall be closer than 500 feet to the nearest public road. [Bill No. 6, 1984.]

5. The balance of the tract outside of the building envelope may only be used for open space, agriculture and recreational uses permitted by special exception in the respective R.C.2 and R.C.5 zones. Provided that no recreational use which is permitted by special exception may be allowed within 200 feet of any public road. [Bill No. 6, 1984.]

6. Neither the use of the site for a life care or continuing care facility nor any increased density of the site allowed by legislative act may be considered as evidence of "substantial change in the character of the neighborhood" for the purpose of interim rezoning classifications of other property in the neighborhood. [Bill No. 6, 1984.]

BALTIMORE COUNTY CODE

Subdivision means the division of a lot, tract or parcel of land into two or more lots, sites or other divisions of land for the purpose, whether immediate or future, of sale or building development; except, that the following divisions shall not be considered subdivisions within the meaning of this title, provided, that no new streets or roads are involved: Division of land for agricultural purposes where the resulting parcels are three acres or larger in size, divisions of property by testamentary or intestate provisions or division of property upon court order. Subdivision also includes resubdivision, and where appropriate to the context, relates to the process of subdividing or to the lands or territory divided.

Zoning map means a chart or map, or series of charts or maps, which sets forth the currently permissible uses to which privately owned land in the county may be put, and which has been adopted by ordinance of the county council in the manner hereinafter in this title provided. (Bill No. 80, 1960; No. 48, 1963, sec. 1.)

Sec. 22-2. Office of planning and zoning.

The office of planning and zoning shall consist of the director of planning, the zoning commissioner and the subordinate officers, agents and employees under their authority. The office of planning and zoning shall be administered by the director of planning. (Bill No. 80, 1960.)

Sec. 22-3. Planning board—Composition; voting and nonvoting members.

The planning board shall consist of sixteen members, of whom twelve shall be lay members holding no other salaried position in the county government, and the remaining four members shall be the county executive, the county superintendent of schools, the director of public works and the zoning commissioner, all of whom shall serve ex officio during their official tenures in such offices. The ex officio members

Subdivider. See "Developer."

Subdivision. The division of any tract or parcel of land, including frontage along an existing street or highway, into two or more lots, plots or other divisions of land for the purpose, whether immediate or future, of building development for rental or sale, and including all changes in street or lot lines, provided, however, that this definition of a subdivision shall not include divisions of land for agricultural purposes.

Superblock. A planned block of exceptionally large size in both length and width, with access to interior building sites (usually for multiple housing of the garden apartment type) being provided by cul-de-sac streets, parking areas, walks or looped service drives branching inward from surrounding streets. One or more open spaces intended for joint use are usually included within a superblock.

Thoroughfare, main. A street of considerable continuity which usually serves, or is to serve, as a major trafficway for travel within the county, and is designated as such on the master plan of motorways.

Thoroughfare, secondary. A street which serves, or is proposed to serve, as a trafficway for a neighborhood, and as a feeder to a main thoroughfare or controlled-access motorway. (Balto. Co. Code, 1958, sec. 44-1. 7-11-49.)

DIVISION 2. STANDARDS AND DESIGN REQUIREMENTS.

Subdivision I. Generally.

Sec. 22-49. Variation from division requirements.

Where topography or other conditions are such that compliance with the requirements of this division would cause practical difficulty and unnecessary hardship, the planning board may relax the minimum requirements to the extent deemed just and proper in order to grant relief and at the same time protect the public interest, except as to right of way widths, pavement widths and minimum lot sizes. (Balto. Co. Code, 1958, sec. 44-3. 7-11-49.)

Sec. 22-31. Injunctive proceedings.[3]

In addition to all other remedies provided by law, the zoning commissioner, or any person whose property is affected by any violation, including abutting and adjacent property owners, whether specially damaged or not, may maintain an action in, the circuit court for the county for an injunction enjoining the erection, construction, reconstruction, alteration, repair or use of buildings, structures and land in violation of zoning regulations and restrictions adopted pursuant to this title. (Bill No. 80, 1960.)

Article IV. Subdivision Control Generally.[4]

Sec. 22-32. Subdivision regulations.

The planning board from time to time shall prepare and submit to the county council for its approval or disapproval recommendations for the amendment or supplement to regulations governing the subdivision of land throughout the county (codified in article V of this title), including but not limited to standards for approving the design of subdivisions, requirements for the submission of subdivision plats and the procedure to be followed by subdividers. Such regulations may provide for the proper arrangement of streets, in relation to other existing planned streets and to the master plan, and local open space tracts, for adequate and convenient open spaces for traffic, recreation, utilities, access of firefighting apparatus, light and air, and for the avoidance of congestion of population, including minimum widths and areas of lots. Such minimums shall coincide with such provisions in the Zoning Regulations for the county.

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[3] Similar section of 1955 County Code cited in Commissioners of Baltimore County v. *Oxford Company*, 209 Md. 373, 121 A. 2d 239 (1956).

[4] There is nothing in this article requiring the planning commission tentatively to approve a subdivision plan. Board of County Commissioners of Baltimore County v. Oxford Development Company, 209 Md. 373, 121 A. 2d 239 (1956).

These subdivision regulations may include provisions as to the extent to which streets and other ways, water, sewer and drain pipes, local open space tracts and other public facilities shall be provided for, as a condition precedent to approval of the plat. Such regulations may provide for tentative approval of the plat, but any such tentative approval shall be revocable. The subdivision regulations shall be adopted, with amendments of any, and may from time to time thereafter be amended by the county council by ordinance after public hearing. Copies of the subdivision regulations shall be made available to the public, and a reasonable charge therefor may be made. (Bill No. 80, 1960; No. 48, 1963, sec. 2.)

Sec. 22-33. Exemption of governmental approval of subdivision regulations.

Any such subdivision regulations may exempt from the requirements of governmental approval, subdivisions wherein the number of new lots is less than a designated number, or plats that do not involve new streets, or such other plats or subdivisions as such ordinance shall designate. In all cases involving such exempted subdivisions, the planning board chairman, or its director, shall certify the exemption on the plat, deed or instrument to be filed with the clerk of the circuit court for recording. (Bill No. 80, 1960.)

Sec. 22-34. Requirements for subdivisions and plats generally.

(a) In acting upon subdivisions, the planning board shall require, among other conditions in the public interest, that the tract shall be adequately drained, and the streets shall be of sufficient width and suitable grade and suitably located to accommodate the prospective traffic, to provide access for firefighting equipment to buildings and to be coordinated so as to comprise a convenient system, relating properly to the existing street system. Where the planning board after hearing has adopted portions of the master plan with proposals regarding the street system within the proposed subdivision,

Sec. 22-38. Appeal to circuit court from decision of planning board.

If any person shall be aggrieved by the action of the planning board on final plats of subdivisions under section 22-37 of this Code, an appeal may be taken to the circuit court for the county within thirty days after the date of action by the planning board. The court shall hear all such appeals without the intervention of a jury and shall have power to affirm, modify or reverse in part or in whole any such decision from and may remand any case for the entering of a proper order or for further proceedings as the court shall determine. Upon the hearing of such appeal, the decision of the planning board shall be presumed by the court to be proper and to best serve the public interest; the burden of proof shall be upon the appellant to show that the decision complained of was against the public interest and that the planning board's discretion in rendering its decision was not honestly and fairly exercised, or such decision was arbitrary, or procured by fraud, or unsupported by any substantial evidence, or was unreasonable, or that such decision was beyond the powers of the planning board and was illegal. (Bill No. 80, 1960.)

Sec. 22-39. Appeal to court of appeals from circuit court.[5]

An appeal may be taken to the court of appeals of the state from any decision of the circuit court for the county reviewing the decision of the planning board. In such cases, the court of appeals shall not award costs of the appeal against any party to the appeal except the appellant. (Bill No. 80, 1960.)

Sec. 22-40. Sale, transfer, etc., of any land in unapproved plat.

(a) If before approval of a plat has been obtained, any person transfers, sells or agrees to sell, as owner or agent, any

[5] Similar section under prior law cited in Zinn v. Board of Zoning Appeals, 207 Md. 355, 114 A. 2d 614 (1955).

land which forms a part of a subdivision on which, by ordinance, the planning board is required to act, such person shall be subject to a fine not to exceed one hundred dollars or to imprisonment for not more than thirty days, and each parcel, plat or lot so disposed of shall be deemed a separate violation.

(b) In addition to the foregoing, the county may institute and maintain a civil action to set aside and inalidate any conveyance made pursuant to such a contract or sale.

(c) In any such action the transferee, purchaser or grantee shall be entitled to a lien upon a portion of the land from which the subdivision was made that remains in the possession of the subdivider, his assigns or successors, to secure the return of any deposit made or purchase price paid, and also a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within two years after the date of the recording of the instrument of transfer, sale or conveyance of the land, or within six years if unrecorded.

(d) In addition to the foregoing, if the conditions in any public works agreement executed in accordance with the provisions of subsection (c) of section 22-34 of this Code have been violated, the county may institute proceedings in the circuit court for the county for the specific enforcement of the public works agreement and for injunctive relief to prohibit the sale or other disposition of any land which forms a part of the subdivision to which the public works agreement pertains, pending the outcome of such litigation. (Bill No. 80, 1960.)

Sec. 22-41. Certificate of approval of subdivision—Application.

The prospective purchaser, prospective mortgager or any other person interested in any land which forms part of a subdivision, or which, since the first day of October, 1955, formed part of such a subdivision, may apply in writing to the proper official or, if such official is unknown to the applicant, then to the secretary to the county executive for the issuance of cer-

tificate certifying whether or not such subdivision has been approved by the planning board. Such application shall contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof. (Bill No. 80, 1960.)

Sec. 22-42. Same—Issuing official certificates and time of issuance; duplicates.

The county executive may designate some other county official as the official who shall make and issue such certificates, and the official so designated shall issue such certificate within fifteen days after the receipt of such written application and the fees therefor. Such official shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fees charged, in a binder as a permanent record of his office. (Bill No. 80, 1960.)

Sec. 22-43. Same—Rights under certificates.

Any person who shall acquire for a valuable consideration an interest in the lands covered by any such certificate of approval of a subdivision in reliance upon the information therein contained shall hold such interest free of any right, remedy or action which could be prosecuted or maintained by the county pursuant to the provisions of this title. (Bill No. 80, 1960.)

Sec. 22-44. Same—Contents.

Each such certificate shall be designated a "certificate as to approval of subdivision of land," and shall certify:

(1) That there exists in the county a duly established planning board which meets regularly and that there is an ordinance controlling subdivision of land, adopted under the authority of this title.

(2) Whether the subdivision or resubdivision, as it relates to the land shown in said application has been approved by the planning board, and, if so, the date of such approval.

(3) Whether such subdivision or resubdivision, if the same has not been approved, is exempt from the requirement of approval as provided in this title. (Bill No. 80, 1960.)

Sec. 22-45. Same—Applications addressed to county.

Any such application addressed to the secretary to the county executive shall be deemed to be addressed to the proper designated official and the county shall be bound thereby to the same extent as though the same was addressed to the designated official. (Bill No. 80, 1960.)

Sec. 22-46. Same—Fees.

All fees payable for the issuance of such certificates shall be collected by the county in accordance with the billing and collection procedures in effect at the time of payment. (Bill No. 80, 1960.)

Sec. 22-47. Same—Effect of failure to issue.

If the official designated to make and issue any such certificate fails to issue the same within fifteen days after receipt of an application and the fees therefor, any person acquiring an interest in the lands described in such application shall hold such interest free of any right, remedy or action which could be prosecuted or maintained pursuant to the provisions of this title. (Bill No. 80, 1960.)

Article V. Subdivision Regulations.[6]

DIVISION 1. GENERALLY.

Sec. 22-48. Definitions.

The following definitions represent the meanings of terms as used in this article:

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[6] For state law as to requirements for plats of subdivisions, see Anno. Code of Md., 1957, Art. 17, § 60.

Sec. 22-50. Highest standards to apply in event of conflicts.

Whenever there is a discrepancy between minimum standards or dimensions noted in this division and those contained in the Zoning Regulations, the Building Code or other official regulations of the county, the highest standard shall apply. (Balto. Co. Code, 1958, sec. 44-4. 7-11-49.)

Subdivision II. Local Open Space Tracts in Residential Subdivisions.

Sec. 22-51. Purpose.

The purposes of providing for local open space tracts, as defined in section 22-1 of this Code, are to offer recreational opportunities close to home, to enhance the appearance of neighborhoods through preservation of natural green spaces, to counteract the effects of urban congestion and monotony, and to encourage participation by all age groups in the use and care of local open space tracts in new residential subdivisions. Such types as local parks, small recreation areas, and other small open spaces in a planned neighborhood pattern are intended to conserve local spots of natural beauty, to provide structure to neighborhood design, to add to the sense of spaciousness, to encourage cooperative relationships between neighbors, to help promote the public health, safety, morals and welfare of the people residing nearby, and to aid in stabilizing property values. (Balto. Co. Code, 1958, sec. 44-2. Bill No. 68, 1963. 7-11-49.)

Sec. 22-52. Designation of local open space tracts in residential subdivisions.

No preliminary plan for the proposed development of land for residential purposes in the county shall be approved by the planning board unless such plan provides for local open space tracts, as defined in section 22-1 of this Code, of suitable size, location, shape and topography, and with convenient pedestrian access, such tracts to be incorporated in the

tions may be approved by the planning board. (Balto. Co. Code, 1958, sec. 44-44. 7-11-49.)

Sec. 22-101. Double frontage lots to be avoided; exceptions.

Double-frontage lots should be avoided as far as possible. (For exceptions, see section 22-69 of this Code.) (Balto. Co. Code, 1958, sec. 44-45. 7-11-49.)

Sec. 22-102. Side line angle with street line.

Side lines of lots shall be approximately at right angles or radial to the street line unless, in the opinion of the planning board, a variation from this rule will give a better street and lot plan. (Balto. Co. Code, 1958, sec. 44-46. 7-11-49.)

Sec. 22-103. Extra width for corner lots.

Corner lots should desirably have extra width. (Balto. Co. Code, 1958, sec. 44-47. 7-11-49.)

Sec. 22-104. Provision for garage space.

Except in apartment developments the size and character of lots shall be such as not to preclude the practicability or ultimate provision of a garage on each lot. Under conditions acceptable to the planning board, however, a garage compound may provide an equivalent number of garage spaces. (Balto. Co. Code, 1958, sec. 44-48. 7-11-49.)

DIVISION 3. PRELIMINARY PLAN.

Subdivision I. Generally.

Sec. 22-105. Purpose; qualifications of designer.

The preliminary plan of a subdivision is not intended to be a record plat. Its purpose is to show graphically all facts needed to enable the county planning board and other county

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planning board as to the currently existing and as to the future use of land in the county.

Drainage right of way means the lands required for the installation of storm water sewers or drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of waters therein to safeguard the public against flood damage in accordance with section 30-21 of this Code.

Local open space tract means land provided in residential subdivisions and necessary and desirable for the local recreational needs of residents of such subdivisions for such recreation types of spaces as play lots, local play areas, small parks, stream valley parks, natural woods, areas of unusual natural scenic beauty, recreational walkways and pathways, and special street center islands, but the term "local open space tract" shall not include the larger open space park and playfield areas of the type which serve larger than local need and which are incorporated in the master plan.

Master plan means a composite of the mapped and written proposals for the systematic physical development of the county, which plan shall have been adopted by the planning board under section 22-12 of this Code, and shall have the scope specified in section 22-13 of this Code.

Public works agreement means an agreement with the county for the construction of water and sewer facilities, storm drains, streets, bridges and other public structures.

Street means any street, avenue, boulevard, road, lane, parkway, freeway, viaduct, bridge or other way, which is an existing state or county highway, or a street or way shown on a plat duly filed and recorded in the office of the clerk of the circuit court for the county, and includes the land between the street right of way lines, whether improved or unimproved, and may comprise pavements, shoulders, curbs and gutters, sidewalks, parking areas and other areas within the street right of way lines.

Subdivision means the division of a lot, tract or parcel of land into two or more lots, sites or other divisions of land for the purpose, whether immediate or future, of sale or building development; except, that the following divisions shall not be considered subdivisions within the meaning of this title, provided, that no new streets or roads are involved: Division of land for agricultural purposes where the resulting parcels are three acres or larger in size, divisions of property by testamentary or intestate provisions or division of property upon court order. Subdivision also includes resubdivision, and where appropriate to the context, relates to the process and subdividing or to the lands or territory divided.

who shall violate such regulations, restrictions or final order shall be deemed guilty of a separate offense for every day that such violation shall continue. (Bill No. 80, 1960; Balto. Co. Code, 1968, § 22-30)

Sec. 22-36. Injunctive proceedings.

In addition to all other remedies provided by law, the zoning commissioner, or any person whose property is affected by any violation, including abutting and adjacent property owners, whether specially damaged or not, may maintain an action in, the circuit court for the county for an injunction enjoining the erection, construction, reconstruction, alteration, repair or use of buildings, structures and land in violation of zoning regulations and restrictions adopted pursuant to this title. (Bill No. 80, 1960; Balto. Co. Code, 1968, § 22-31)

Annotation—Similar section of 1955 County Code cited in Commissioners of Baltimore County v. Oxford Company, 209 Md. 373, 121 A. 2d 239 (1956).

ARTICLE IV. SUBDIVISION CONTROL GENERALLY*

Sec. 22-37. Subdivision regulations.

The planning board from time to time shall prepare and submit to the county council for its approval or disapproval recommendations for the amendment or supplement to regulations governing the subdivision of land throughout the county (codified in article V of this title), including but not limited to standards for approving the design of subdivisions, requirements for the submission of subdivision plats and the procedure to be followed by subdividers. Such regulations may provide for the proper arrangement of streets, in relation to other existing planned streets and to the master plan, and local open space tracts, for adequate and convenient open spaces for traffic, recreation, utilities, access of fire-fighting apparatus, light and air, and for the avoidance of congestion of population, including minimum widths and areas of lots. Such minimums shall coincide with such provisions in the zoning regulations for the county.

These subdivision regulations may include provisions as to the extent to which streets and other ways, water, sewer and drain pipes, local open space tracts and other public facilities shall be provided for, as a condition precedent to approval of the plat. Such regulations may provide for tentative approval of the plat, but any such tentative approval shall

*State law reference—Requirements for recording plats of subdivisions, §§ 3-108, 3-304, unnumbered article Real Property, Anno. Code of Md., 1974 Volume.

Annotation—There is nothing in this article requiring the planning commission tentatively to approve a subdivision plan. Board of County Commissioners of Baltimore County v. Oxford Development Company, 209 Md. 373, 121 A. 2d 239 (1956).

be revocable. The subdivision regulations shall be adopted, with amendments of any, and may from time to time thereafter be amended by the county council by ordinance after public hearing. Copies of the subdivision regulations shall be made available to the public, and a reasonable charge therefor may be made. (Bill No. 80, 1960; Bill No. 48, 1963, § 2; Balto. Co. Code, 1968, § 22-32)

Sec. 22-38. Exemption of governmental approval of subdivision regulations.

Any such subdivision regulations may exempt from the requirements of governmental approval, subdivisions wherein the number of new lots is less than a designated number, or plats that do not involve new streets, or such other plats or subdivisions as such ordinance shall designate. In all cases involving such exempted subdivisions, the planning board chairman, or its director, shall certify the exemption on the plat, deed or instrument to be filed with the clerk of the circuit court for recording. (Bill No. 80, 1960; Balto. Co. Code, 1968, § 22-23)

Sec. 22-39. Requirements for subdivisions and plats generally.

(a) In acting upon subdivisions, the planning board shall require, among other conditions in the public interest, that the tract shall be adequately drained, and the streets shall be of sufficient width and suitable grade and suitably located to accommodate the prospective traffic, to provide access for firefighting equipment to buildings and to be coordinated so as to comprise a convenient system, relating properly to the existing street system. Where the planning board after hearing has adopted portions of the master plan with proposals regarding the street system within the proposed subdivision, the board may require that the streets shown conform in design and in width to the proposals shown on the master plan. No street shall be less than fifty (50) feet within right of way lines and shall be of such width as may be required in the subdivision regulations or as shown on the master plan for the county.

(b) The planning board shall further require that all lots shown on the plats shall be adaptable for the intended purposes without danger to health or peril from flood, fire erosion or other menace.

(c) Before final approval of subdivisions the director of public works may require, in accordance with the subdivision regulations, the execution of a public works agreement for any or all of the following improvements it may deem necessary or appropriate: Street grading, pavement, gutters, curbs, sidewalks, shade trees, surveyor's monuments, water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, local open space tracts and such other sub-

House, group. One of not less than three (3) nor more than seven (7) one-family or two-family living units, placed in a row as a single continuous building.

Improvements, public. Any of the following: Street pavement, with or without curbs and gutters; sidewalks; crosswalks; water mains; sanitary sewers and storm drains; with appurtenant construction; street trees.

Lot. A portion of a subdivision, or other parcel of land intended for building development, whether immediate or future.

Lot depth. The mean horizontal distance between the front and rear lines of a lot.

Lot, double-frontage. A lot, the opposite ends of which both abut on streets.

Master plan. The comprehensive plan (which may consist of several maps, data, etc.) made and adopted by an official planning board, indicating the general locations recommended for major motorways, parks, and other public open spaces, public building sites, routes for public utilities and zoning districts.

Motorway. An inclusive term for streets, controlled-access motorways and alleys.

Motorway, controlled-access. As distinguished from a "street," a controlled-access motorway is not intended to provide direct access to abutting property, ingress and egress to it being permitted only at planned intersections which may or may not involve separation of grades.

Public. The word "public" means "open to common use," whether or not public ownership is involved.

Right of way. A strip of land between property lines, used or to be used as a street, controlled-access motorway, alley or crosswalkway, or for a pipeline or open drainage channel.

Street. A right of way at least fifty (50) feet wide which provides primary access to abutting properties.

The term also applies to rights of way thirty (30) feet or more in width, but less than fifty (50) feet, existing as of the date of adoption of this article.*

Street, cul-de-sac. A short, minor street, having but one end open for motor traffic, the other being permanently terminated by a turnaround or backaround for vehicles.

Street, minor. Any street other than a thoroughfare.

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*Editor's note—The regulations here codified were adopted on July 11, 1949.

Subdivider. See "Developer."

Subdivision. The division of any tract or parcel of land, including frontage along an existing street or highway, into two (2) or more lots, plots or other divisions of land for the purpose, whether immediate or future, of building development for rental or sale, and including all changes in street or lot lines, provided, however, that this definition of a subdivision shall not include divisions of land for agricultural purposes.

Superblock. A planned block of exceptionally large size in both length and width, with access to interior building sites (usually for multiple housing of the garden apartment type) being provided by cul-de-sac streets, parking areas, walks or looped service drives branching inward from surrounding streets. One or more open spaces intended for joint use are usually included within a superblock.

Thoroughfare, main. A street of considerable continuity which usually serves, or is to serve, as a major trafficway for travel within the county, and is designated as such on the master plan of motorways.

Thoroughfare, secondary. A street which serves, or is proposed to serve, as a trafficway for a neighborhood, and as a feeder to a main thoroughfare or controlled-access motorway. (Balto. Co. Code, 1958, § 44-1; Balto. Co. Code, 1968, § 22-48)

DIVISION 2. STANDARDS AND DESIGN REQUIREMENTS

SUBDIVISION 1. GENERALLY

Sec. 22-54. Variation from division requirements.

Where topography or other conditions are such that compliance with the requirements of this division would cause practical difficulty and unnecessary hardship, the planning board may relax the minimum requirements to the extent deemed just and proper in order to grant relief and at the same time protect the public interest, except as to right of way widths, pavement widths and minimum lot sizes. (Balto. Co. Code, 1958, § 44-3; Balto. Co. Code, 1968, § 22-49)

Sec. 22-55. Highest standards to apply in event of conflicts.

Whenever there is a discrepancy between minimum standards or dimensions noted in this division and those contained in the zoning regulations, the building code or other official regulations of the county, the highest standard shall apply. (Balto. Co. Code, 1958, § 44-4; Balto. Co. Code, 1968, § 22-50)

BALTIMORE COUNTY CODE 1978

1989/90 CUMULATIVE SUPPLEMENT

Containing all additions and amendments to the Baltimore County Code, 1978, through the 1989 Session of the Baltimore County Council

Bill No. 149-89

MUNICIPAL CODE CORPORATION

Tallahassee, Florida 1990

Sec. 22-40. Scope of regulations.

(a) These regulations shall apply to all development except such development which, prior to the effective date of this article [June 11, 1982], has received tentative approval of the preliminary plan by the planning board or for which development a valid, unexpired building permit exists, or for which development a current executed public works agreement exists, all of which development shall be governed by the subdivision regulations in effect at the time of said preliminary plan approval, building permit issuance or public works agreement execution, as the case may be.

(b) In addition to complying with the regulations set forth in sections 22-37 through 22-119, development of land within the critical area as delineated on the official critical area map of Baltimore County as maintained by the zoning commissioner shall comply with the regulations contained in division 6 of this article IV of title 22. (Bill No. 56, 1982, § 2; Bill No. 35, 1988, § 1)

Sec. 22-41. General exemption.

The subdivision of land for agricultural purposes is exempt from these regulations if no new streets are involved. (Bill No. 56, 1982, § 2)

Sec. 22-42. Limited exemptions.

The following development is exempt from division 2 of these regulations:

(1) The building or preparation of land for building for a dwelling for one (1) or two (2) families (i) on a single lot or tract which is not part of a recorded plat, or (ii) on a lot or lots exempt from the lapse provisions of section 22-68.

(2) The building or preparation of land for building on a lot of record lawfully in effect at the time of the building or preparation of the land for building if the lot of record did not result from a subdivision of land exempt under section 22-41.

(3) The construction of one (1) tenant house or the location of one (1) trailer on a farm tract.

(4) The subdivision of property pursuant to court order, a will, or the laws of interstate succession.

(5) The resubdivision or lot line adjustment of industrially zoned parcels of land which have been the subject of a previously approved plan and recorded plat.

(6) The subdivision of land into three (3) or fewer lots for residential single-family dwellings.

(7) The construction of accessory structures.

(8) The construction of a building owner and operated by a Baltimore County volunteer fire, ambulance or rescue company which is used primarily for storage or training purposes, fund-raising activities, or other purposes related to rescue or fire suppression activities. (Bill No. 56, 1982, § 2; Bill No. 73, 1984, § 1)

Sec. 22-43. Waivers.

(a) If the director of planning and zoning finds (i) that the size, scope and nature of a proposed development does not justify strict compliance with these regulations, and (ii) that a waiver would be within the scope, purpose and intent of these regulations, and (iii) that all other county lands, ordinances and regulations have been complied with, he may grant a waiver from any part of these regulations in the following cases:

(1) Lot line adjustments, including the combination of lots or parcels.

(2) The subdivision of property pursuant to court order, a will, or the laws of interstate succession.

(3) Amendments to an approved plan or plat which do not materially alter the proposed development.

(4) The subdivision of land in an approved agricultural land preservation district for the purpose of the conveyance of lot(s) to the owner or his children pursuant to title 2, subtitle 5 of the Agriculture Article of the Annotated Code of Maryland.

(5) The subdivision of a farm tract into two (2) lots.

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Sec. 22-44. T

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(6) The subdivision of land in an R.C. zone if no new roads are required.

(7) The subdivision of land into three (3) or fewer lots for residential single-family dwellings.

(8) A commercial development of land involving only one (1) building for a single use.

(9) An industrial development of land involving only one (1) building for a single use.

(10) A minor development.

(11) The construction of public buildings.

(12) The construction of accessory structures.

(13) Any proposed development, if the director finds that compliance with these regulations would cause unnecessary hardship.

(b) If the director of planning and zoning determines that a waiver is appropriate, prior to granting such waiver, the director shall give written notice to the planning board of the nature of the contemplated waiver action and the reasons therefor. At the next scheduled meeting of the planning board, a majority of the members of the board in attendance at said meeting may vote to deny or amend with the consent of the applicant, in writing, the director's contemplated waiver action; and the director shall deny or amend the waiver in accordance with the majority vote of the planning board. If no action is taken by the planning board at said meeting, the director may grant the waiver in accordance with the written notification to the planning board.

(c) Before proposing to grant a waiver for development within the critical area, the director of planning and zoning shall obtain recommended findings from the director of environmental protection and resource management which shall be based on the standards specified in section 22-58(b). (Bill No. 56, 1982, § 2; Bill No. 35, 1988, § 2)

Sec. 22-44. Transfer of land in unapproved or expired subdivision.

(a) A person may not convey any lot, parcel or tract of a subdivision unless a plat, if required, has been recorded in accordance

with these regulations, and the plat is effective at the time of said conveyance.

(b) The transferee of any lot, parcel or tract conveyed in violation of this section may bring an action in the circuit court for recision of the conveyance and return of any deposit or purchase money paid, as well as reimbursement for reasonable expenses, including attorney's fees, incurred in connection with the conveyance. (Bill No. 56, 1982, § 2)

Sec. 22-45. Recording unapproved plat.

A person may not offer and the clerk of the circuit court may not accept any plat for recording in the plat records of Baltimore County unless the same has been approved for recording as required by these regulations. (Bill No. 56, 1982, § 2)

Sec. 22-46. Enforcement and remedies.

(a) The county may bring an action for specific performance of these regulations or may move to set aside a conveyance made in violation of these regulations at the cost and expense of the transferor.

(b) A permit may not be issued without compliance with these regulations. (Bill No. 56, 1982, § 2)

Sec. 22-47. Failure of county agency to act.

If any county agency fails to act on any plan or plat submitted in accordance with these regulations within the prescribed time, the plan or plat shall be deemed to have been approved by the agency unless the failure to act has been excused by the administrative officer, in writing, no later than seven (7) days after the expiration of the prescribed time. (Bill No. 56, 1982, § 2)

Sec. 22-48. Fees.

The county administrative officer may establish, from time to time, the fees to be charged for any function of any county agency under the provisions of these regulations, except that a fee may not be charged for the predevelopment conference required by section 22-54. (Bill No. 56, 1982, § 2)

(35) All additional information contained on the critical area findings plan as specified in section 22-206(b).

(c) The plan shall contain a certification under oath that there are no delinquent accounts for any other development with respect to any of the following: The applicant, a person with a financial interest in the proposed development, or a person who will perform contractual services on behalf of the proposed development. (Bill No. 56, 1982, § 2; Bill No. 156, 1983, § 2; Bill No. 30, 1984, §§ 1, 2; Bill No. 34, 1984, § 2; Bill No. 35, 1988, § 2; Bill No. 134, 1989, § 2)

Sec. 22-56. Preliminary review.

(a) Within fifteen (15) days of the receipt of the plan and the necessary review fee, the department of public works shall review the plan for compliance with section 22-55 of these regulations; and if the plan is in compliance, the plan shall be accepted for filing and copies of the plan shall be forwarded to the county review group (CRG) for its action. An incomplete plan shall be returned to the applicant with an explanation for its return. For development activities within the critical area, the plan shall not be accepted until recommended findings have been made by the director of the department of environmental protection and resource management in accordance with section 22-208.

(b) The department of public works shall schedule a meeting of the CRG which shall occur no earlier than fifteen (15) days and no later than thirty (30) days after the plan has been accepted as filed. (Bill No. 56, 1982, § 2; Bill No. 35, 1988, § 1)

Sec. 22-57. County review group (CRG).

(a) The CRG consists of the directors of the department of public works and office of planning and zoning or their designated representatives.

(b) The director of public works or his designated representative shall serve as chairman of the CRG.

(c) The CRG may adopt rules for the conduct of its meetings.

(d) The chairman of the CRG may request other county agencies to be represented at meetings of the CRG.

(e) The chairman of the CRG shall provide copies of all filed plans to the following agencies and shall notify said agencies of all scheduled meetings of the CRG concerning said plans:

(1) Health;

(2) Traffic engineering;

(3) Recreation and parks;

(4) Fire;

(5) The landmarks preservation commission, if the plan involves any building or site identified on any one (1) of the lists referred to in section 22-55(b)(8);

(6) State highway administration; and

(7) Any agency represented pursuant to subsection (d) of this section.

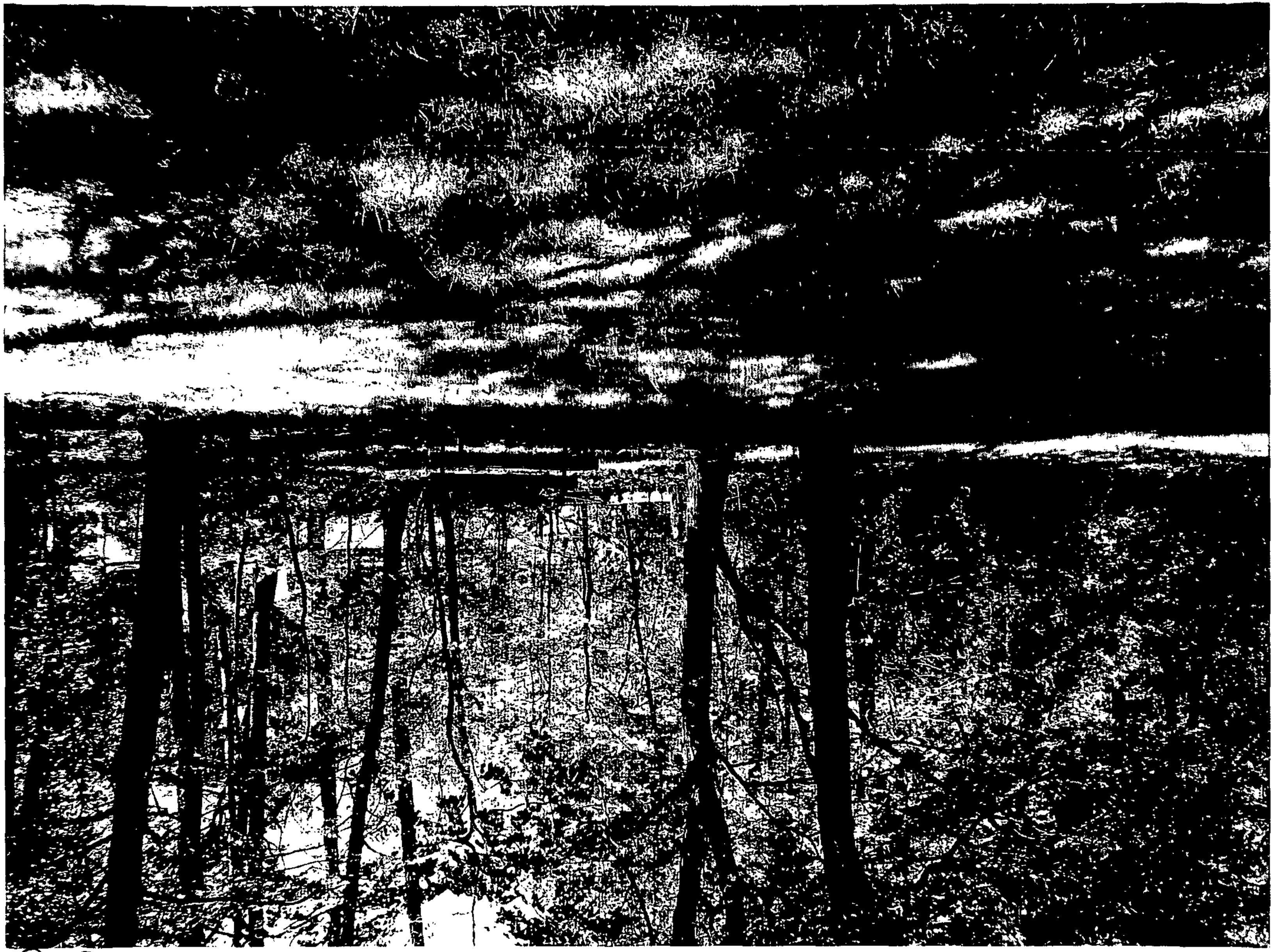
(f) (1) Any agency listed in subsection (e) shall submit written comments to the CRG on the plan prior to the initial CRG meeting. Such comments shall be considered by the CRG and shall become a permanent part of the plan file.

(2) The CRG shall be bound by the comments submitted by the director of recreation and parks with regard to the proposed local open space and acreage identified in the plan, except as provided in section 22-58(i)(2).

(g) Notice of the date, time and place of the initial meeting of the CRG shall be conspicuously posted by the county on the lot, parcel or tract which is the subject of the plan at least fifteen (15) days prior to the meeting. A plan may not be considered by the CRG unless the subject property has been posted in accordance with this section.

(h) Prior to the initial meeting of the CRG to review a plan, representatives of the department of public works and office of planning and zoning shall visit the site. (Bill No. 56, 1982, § 2; Bill No. 156, 1983, § 2)

PET. 5 (A)



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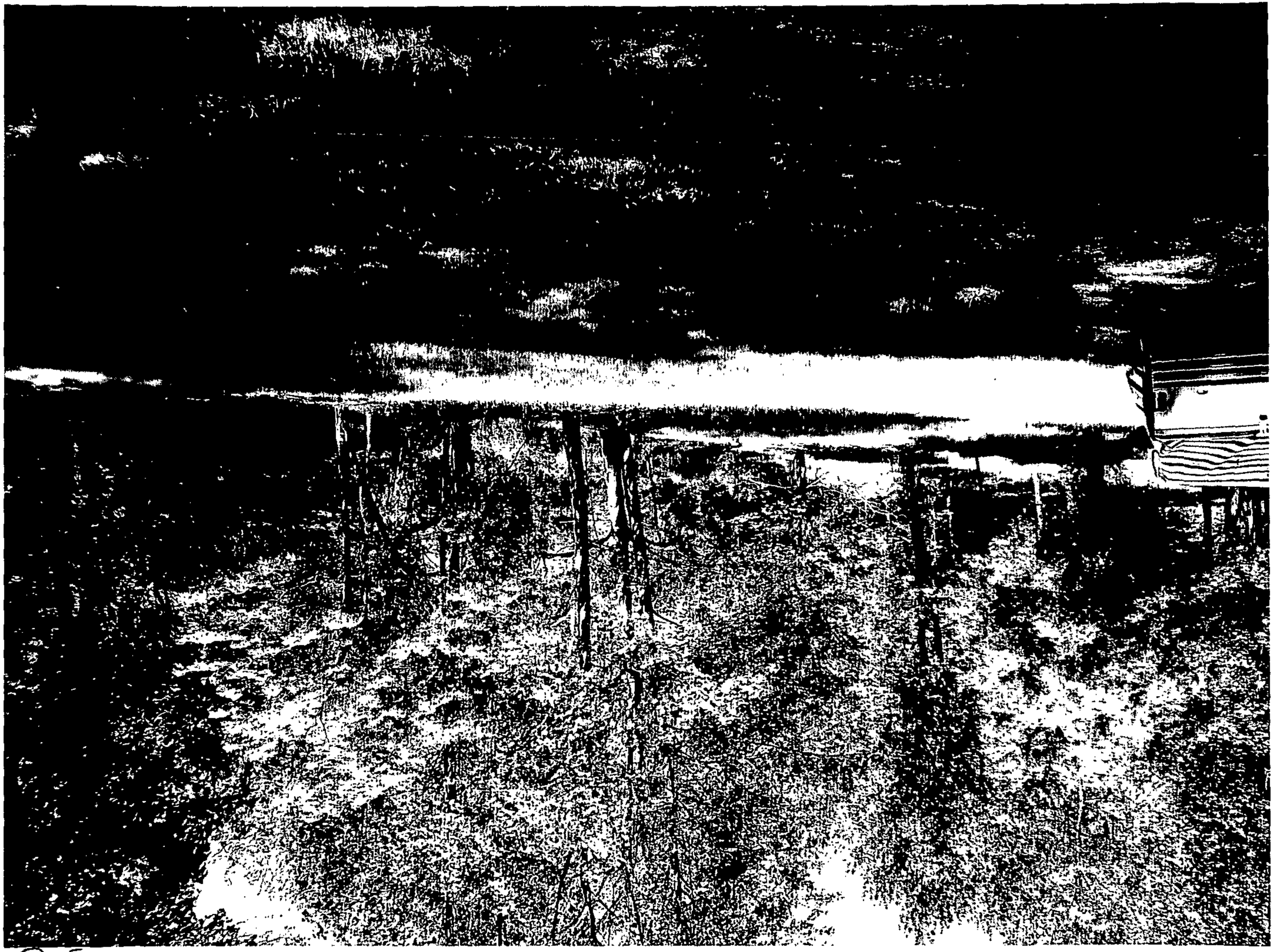

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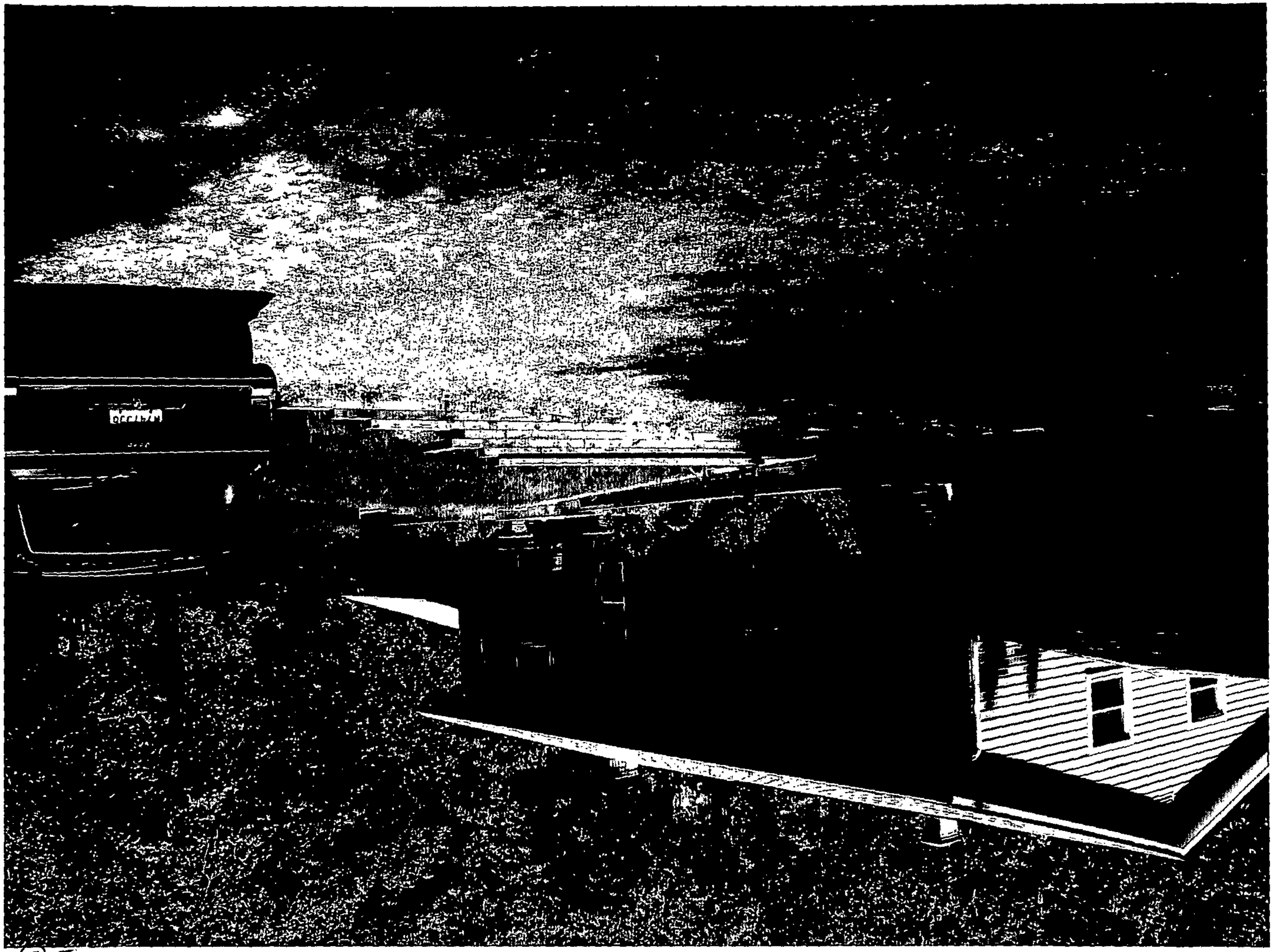

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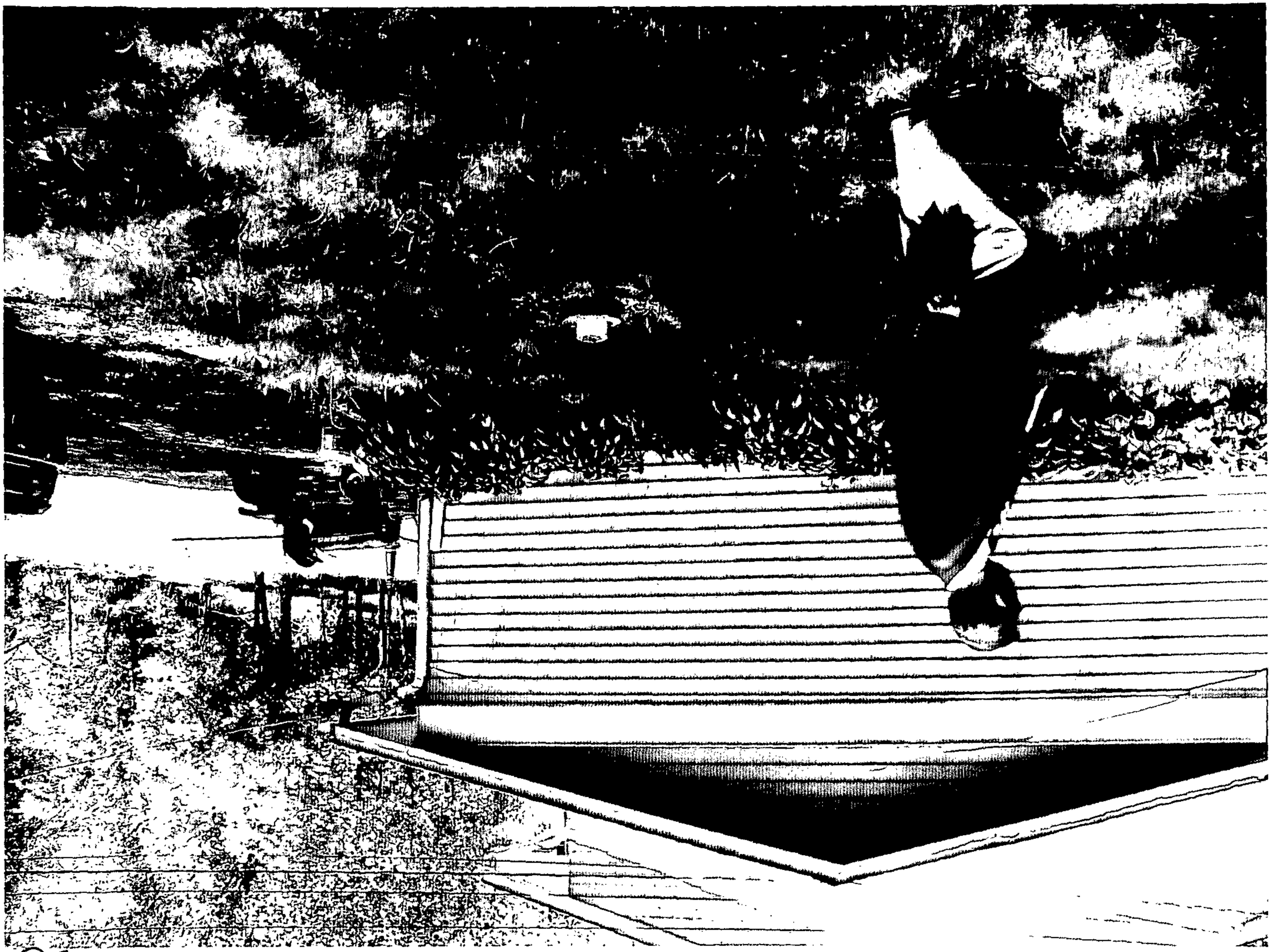

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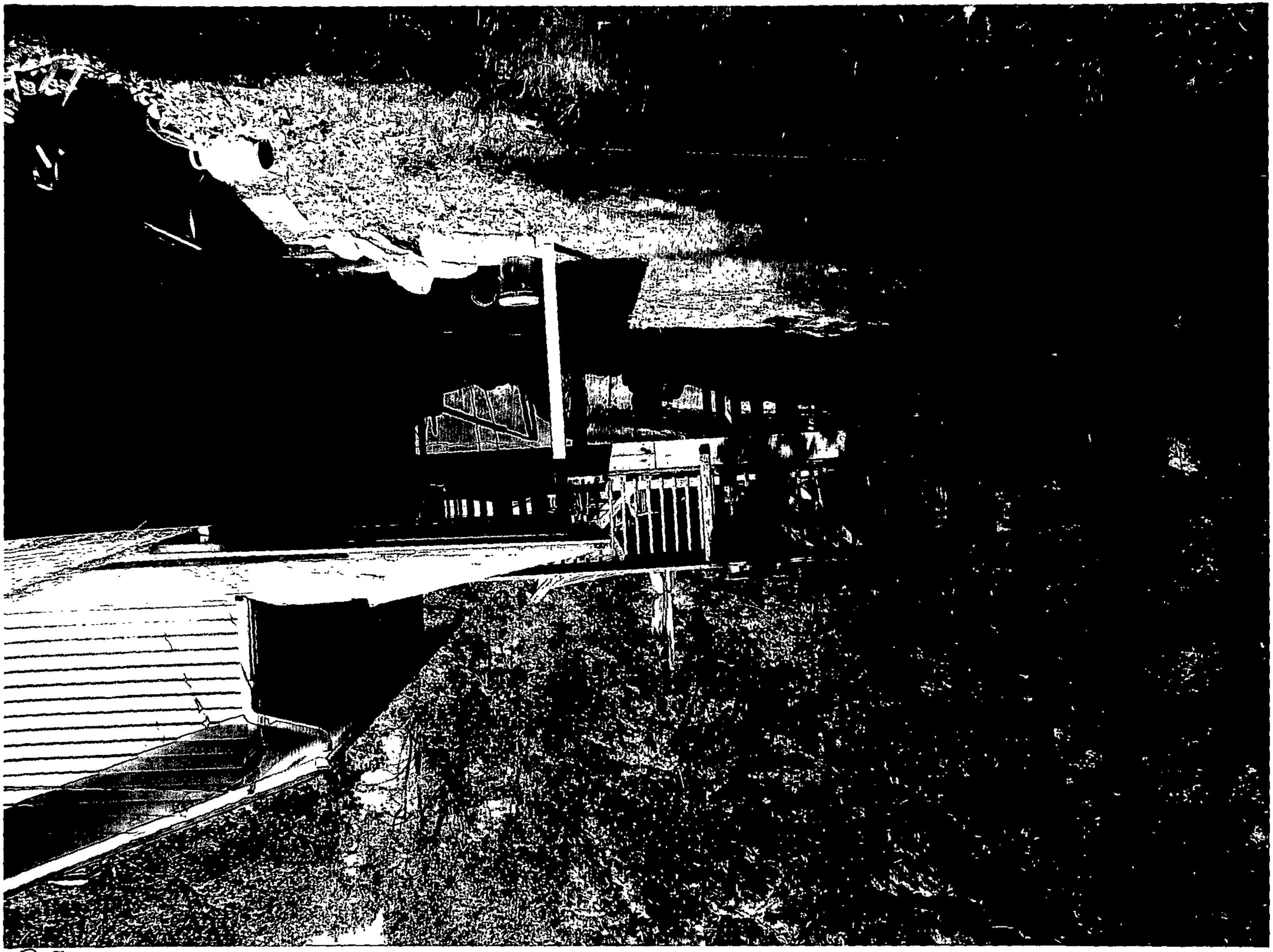

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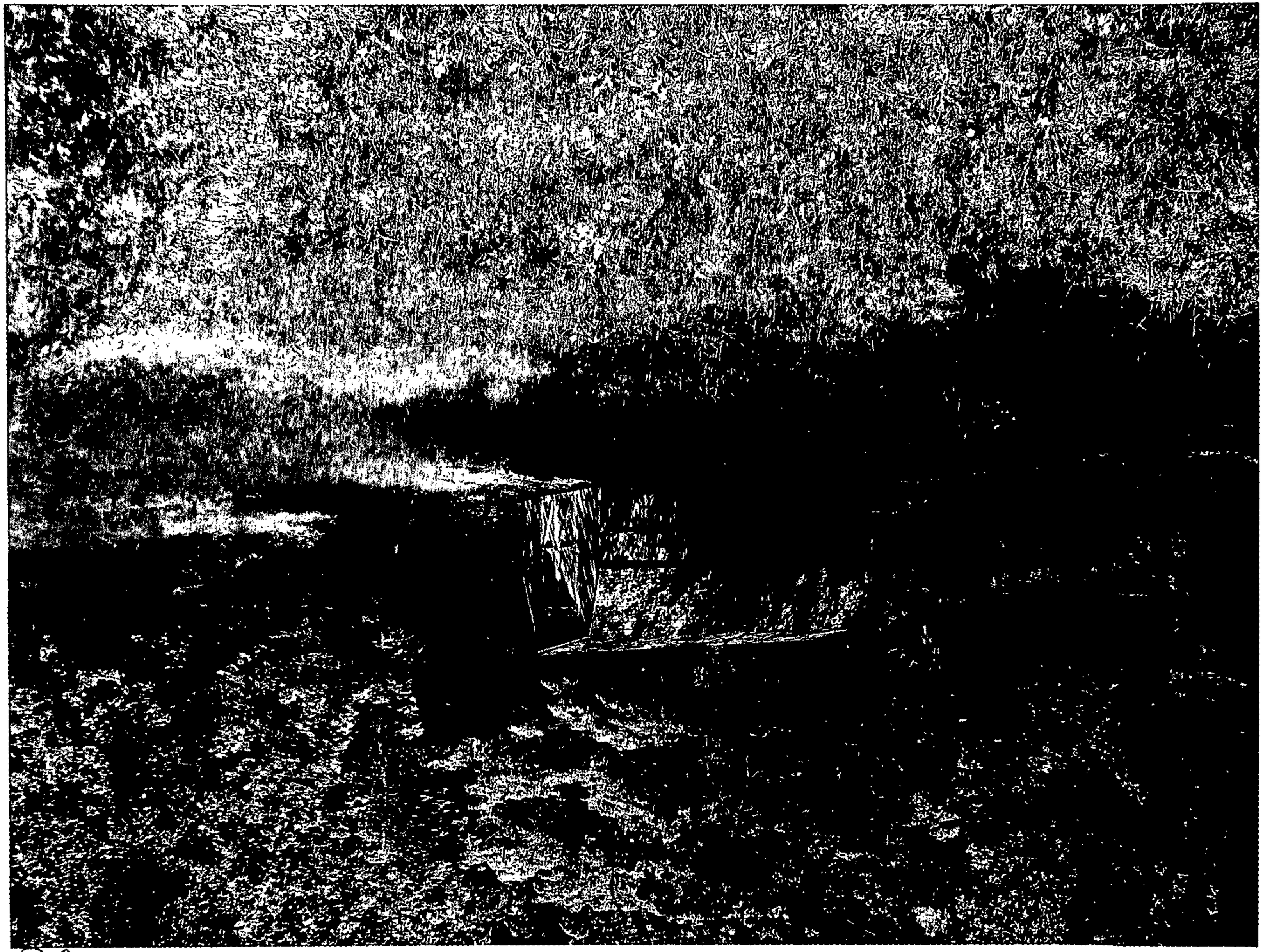

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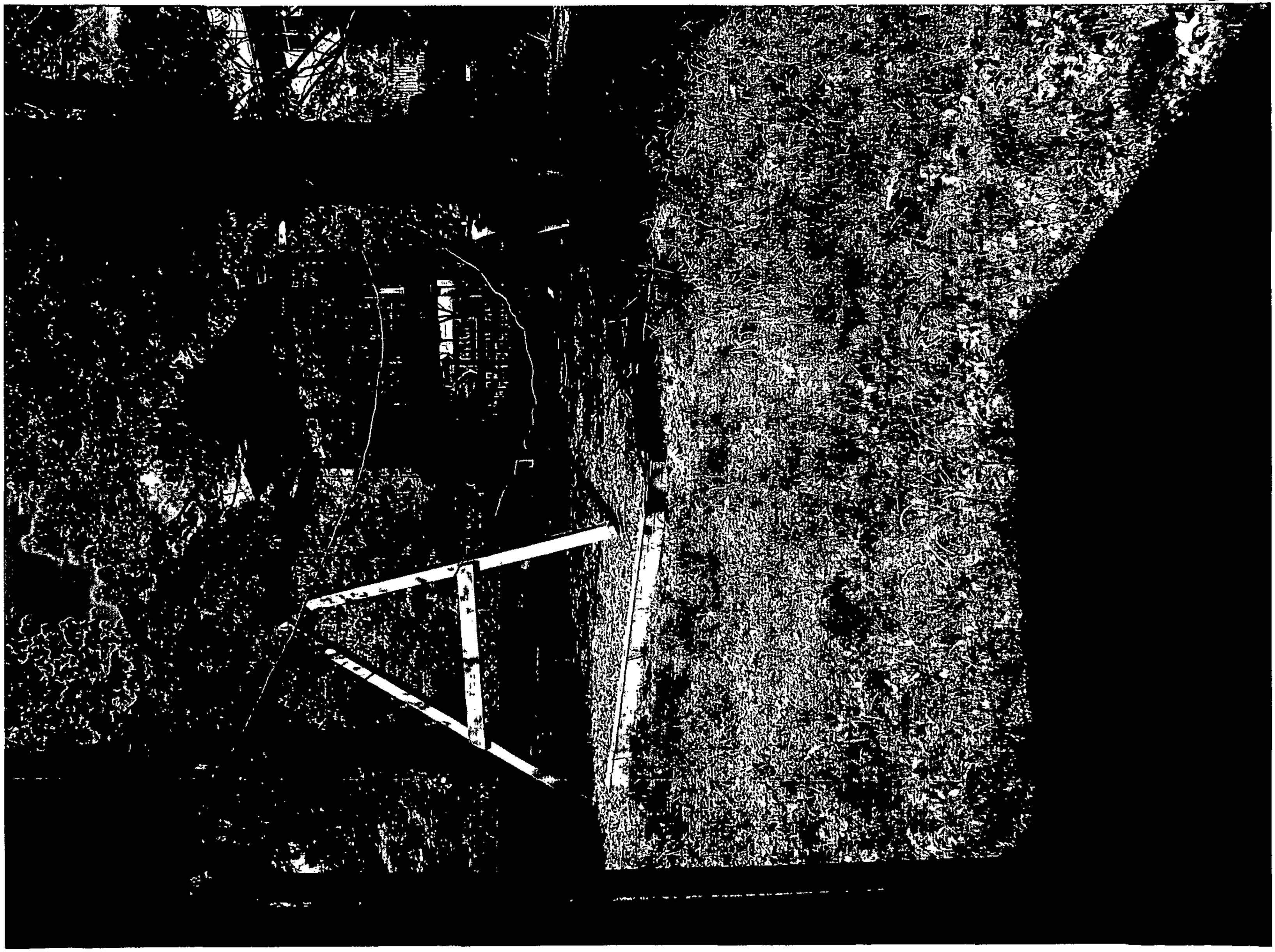
5 (2)



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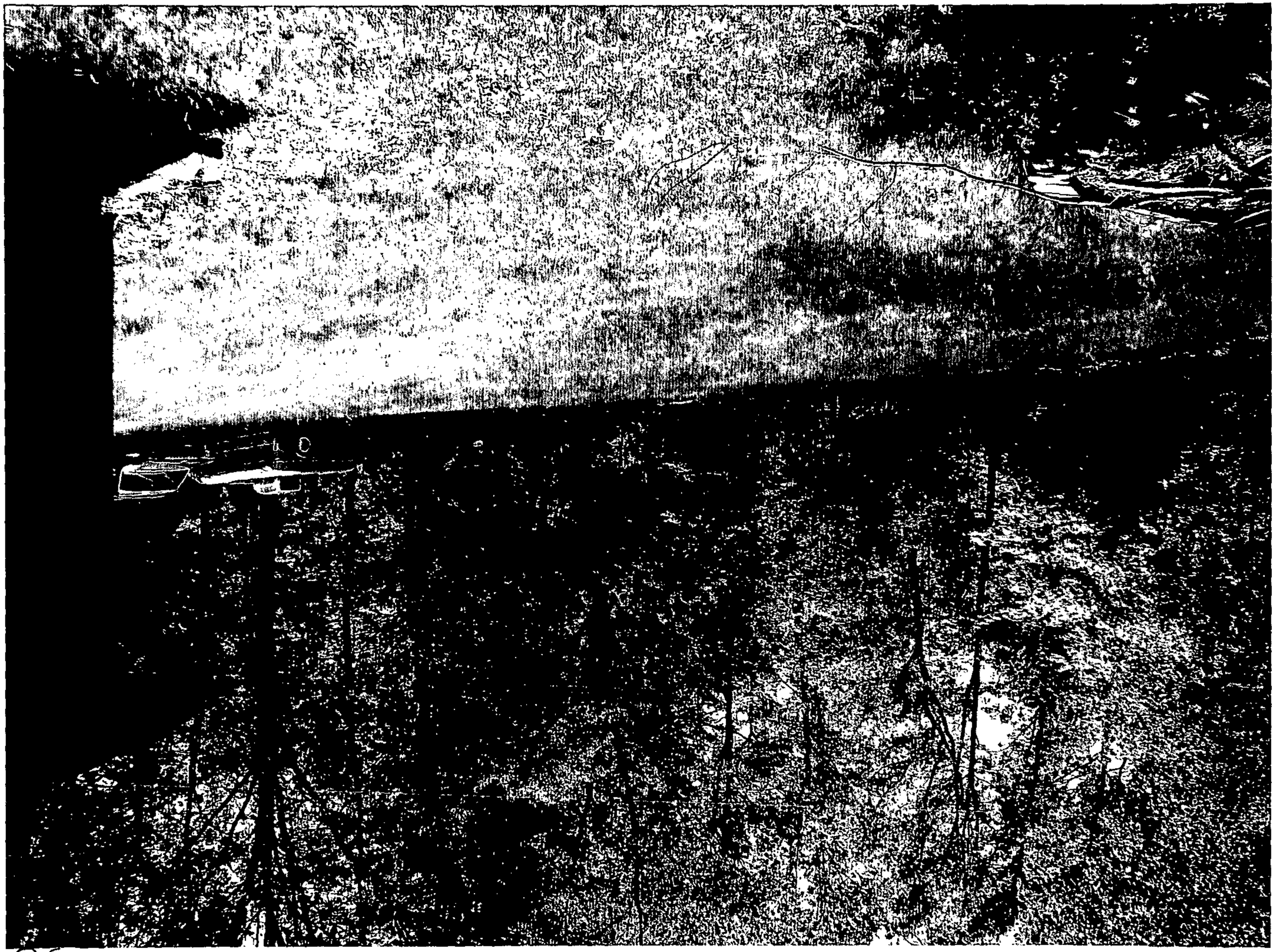


(W) 5

5 (N)

Click here for a plain text ADA compliant screen.

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 04 **Account Number** - 0403000578

Owner Information

Owner Name:	LEVINSON W MARCUS LEVINSON CINDI LYNN	**Use:**	RESIDENTIAL
		Principal Residence:	YES
Mailing Address:	602A CHURCH RD REISTERSTOWN MD 21136-6106	**Deed Reference:**	1) /14393/ 180 2)

Location & Structure Information

Premises Address
602 A CHURCH RD

Legal Description
PT LT 2,10
602 A CHURCH RD
JOHN WHITAKER LAND

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
57	11	294					2	1	Plat Ref:

Special Tax Areas **Town** **Ad Valorem** **Tax Class**

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1968	1,313 SF	36,154.00 SF	04

Stories	Basement	Type	Exterior
SPFOY		SPLIT FOYER	SIDING

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2005	As Of 07/01/2006
Land:	48,030	58,030		
Improvements:	88,590	110,500		
Total:	136,620	168,530	157,892	168,530
Preferential Land:	0	0	0	0

Transfer Information

Seller:	CARPENTER JAMES M,JR	**Date:**	04/05/2000	**Price:**	$138,000
Type:	MULT ACCTS ARMS-LENGTH	**Deed1:**	/14393/ 180	**Deed2:**	
Seller:	ARLINGTON CONTRACTORS INC	**Date:**	04/03/1969	**Price:**	$25,950
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 4978/ 94	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

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

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *

CBA
PET. EXH
NO. 2A

Click here for a plain text ADA compliant screen.

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 04 **Account Number** - 1600000605

Owner Information

Owner Name:	LEVINSON W MARCUS LEVINSON CINDI LYNN	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	602A CHURCH RD REISTERSTOWN MD 21136-6106	**Deed Reference:**	1) /14393/ 180 2)

Location & Structure Information

Premises Address
602 A BLACKFOREST RD

Legal Description
PT LT 2,10
JOHN C WHITAKER PLAT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No: Plat Ref:
57	11	294					2	1	

Special Tax Areas **Town** **Ad Valorem** **Tax Class**

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		36,155.00 SF	04

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2005	As Of 07/01/2006
Land:	9,030	9,030		
Improvements:	0	0		
Total:	9,030	9,030	9,030	9,030
Preferential Land:	0	0	0	0

Transfer Information

Seller: CARPENTER JAMES M	**Date:** 04/05/2000	**Price:** $138,000
Type: MULT ACCTS ARMS-LENGTH	**Deed1:** /14393/ 180	**Deed2:**
Seller: ARLINGTON CONTRACTORS INC	**Date:** 01/26/1970	**Price:** $2,000
Type: IMPROVED ARMS-LENGTH	**Deed1:** / 5068/ 109	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

Exemption Information

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

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *

OBA
PET. EXH
NO. 2B

County Board of Appeals of Baltimore County
ROOM 49 OLD COURTHOUSE
TOWSON, MARYLAND 21204

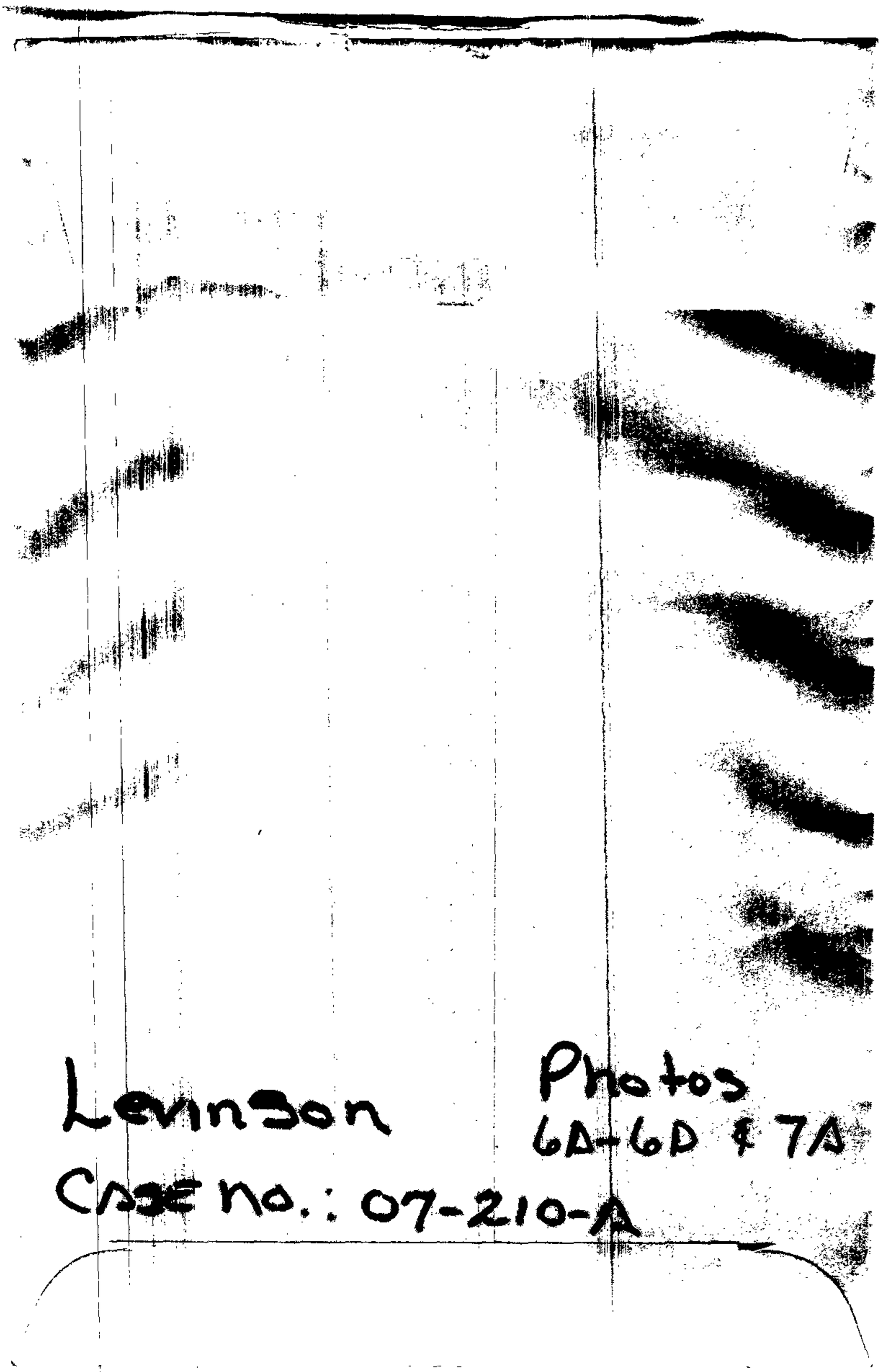
Return Service Requested

LAWRENCE M. HAMMOND
HAMMOND & HAMMOND, LLC
465 MAIN STREET – P.O. BOX 569
REISTERSTOWN, MD 21136

County Board of Appeals of Baltimore County
ROOM 49 OLD COURTHOUSE
TOWSON, MARYLAND 21204

Return Service Requested

MR. & MRS. W. MARCUS LEVINSON
602A CHURCH ROAD
REISTERSTOWN, MD 21123



Levinson

Photos
6A-6D & 7A

Case no.: 07-210-A

CAA
PC
NO 6

Plan Sheet: *057B2*

Note:
The zoning depicted in this application incorporates the actions associated with County Council Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04 adopted by the County Council on August 31, 2004. The action associated with County Council Bill 130-04 adopted on December 6, 2004 is also depicted. In addition, County Board of Appeals actions from MC 05-01, MC 05-02, MC 05-03, and MC 05-04 on February 9, 2005 are represented in this application.

Legend

Zoning — Streams — Vegetation
Buildings — Roads — Rail Lines

Baltimore County
Office of Planning and Zoning
Official Zoning Map

056C1	057A1	057B1	057C1	058A1
056C2	057A2	057B2	057C2	058A2
056C3	057A3	057B3	057C3	058A3

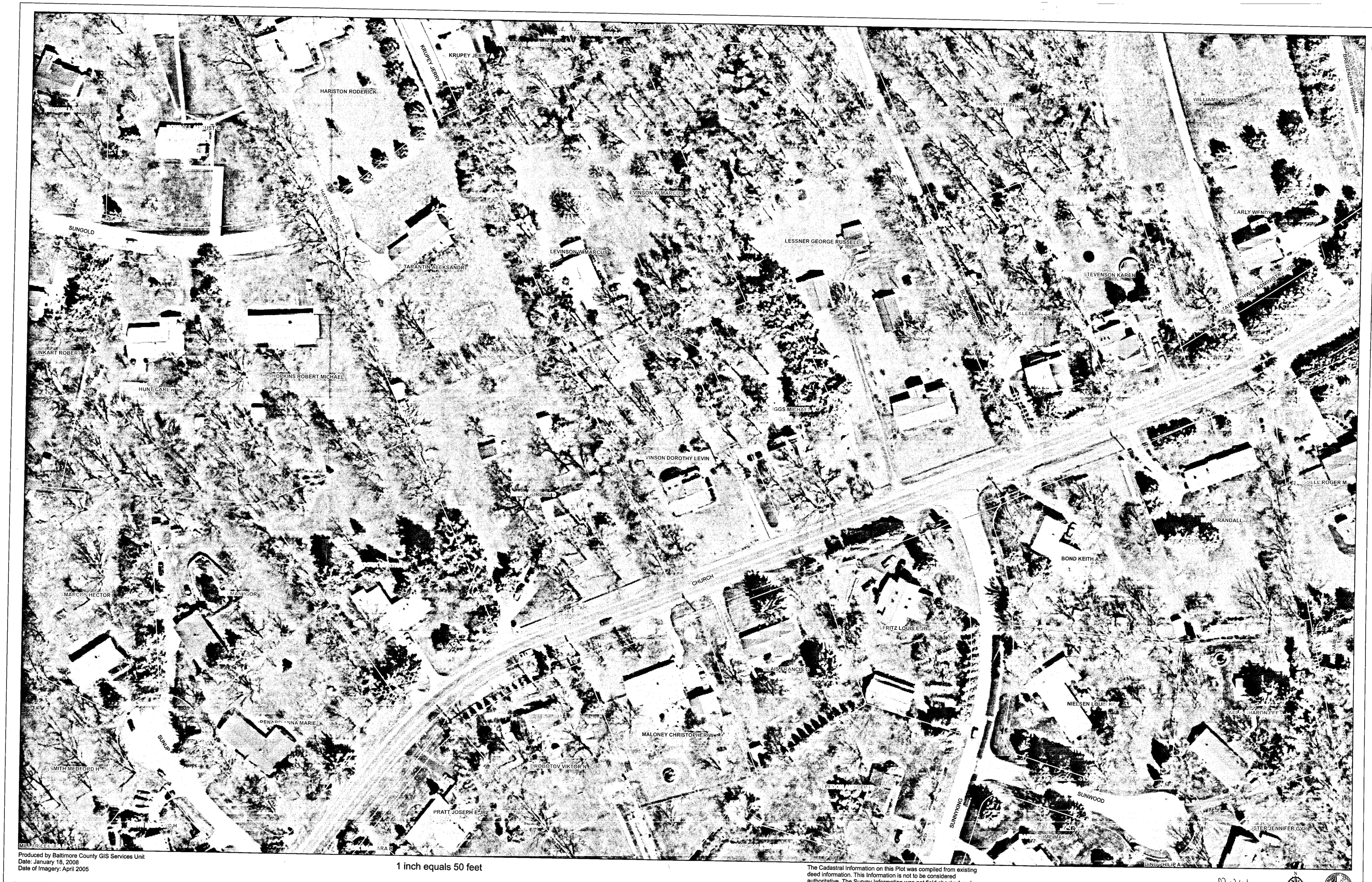
Scale

1" = 200'

0 100 200 400 Feet

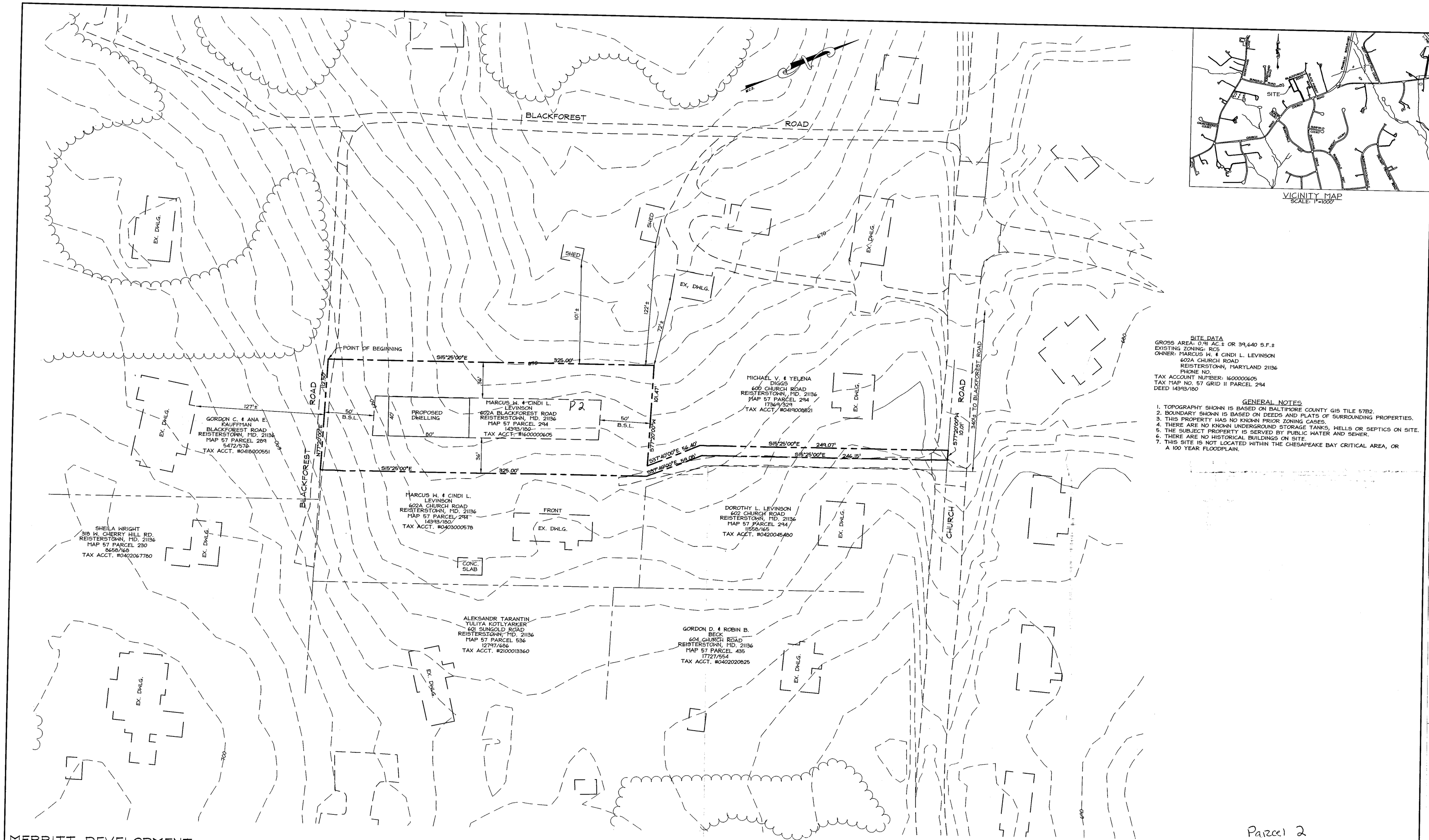
1

Data Sources:
Planametric Data - Baltimore County
OIT/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2004



CAA
Pg 7

07-210/211



VICINITY MAP
SCALE: 1"=1000'

SITE DATA

GROSS AREA: 0.91 AC.± OR 39,640 S.F.±
EXISTING ZONING: RC5
OWNER: MARCUS W. & CINDI L. LEVINSON
602A CHURCH ROAD
REISTERSTOWN, MARYLAND 21136
PHONE NO.
TAX ACCOUNT NUMBER: 1600000605
TAX MAP NO. 57 GRID 11 PARCEL 294
DEED 14393/180

GENERAL NOTES

1. TOPOGRAPHY SHOWN IS BASED ON BALTIMORE COUNTY GIS TILE 57B2.
2. BOUNDARY SHOWN IS BASED ON DEEDS AND PLATS OF SURROUNDING PROPERTIES.
3. THIS PROPERTY HAS NO KNOWN PRIOR ZONING CASES.
4. THERE ARE NO KNOWN UNDERGROUND STORAGE TANKS, WELLS OR SEPTICS ON SITE.
5. THE SUBJECT PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
6. THERE ARE NO HISTORICAL BUILDINGS ON SITE.
7. THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA, OR A 100 YEAR FLOODPLAIN.

MERRITT DEVELOPMENT CONSULTANTS, INC.
9831 MAGLEDT ROAD
BALTIMORE , MARYLAND
PHONE: 410-663-5525 FAX:410-663-4315

VARIANCE REQUEST:
MINIMUM SIDE OF INDIVIDUAL SIDE YARD WIDTH OF 36' (EAST SIDE OF PROPERTY) AND 36' (WEST SIDE OF PROPERTY) IN LIEU OF THE REQUIRED MINIMUM 50' SHOWN IN THE BALTIMORE COUNTY ZONING REGULATIONS MANUAL IN SECTION 1A04.3.2.b.

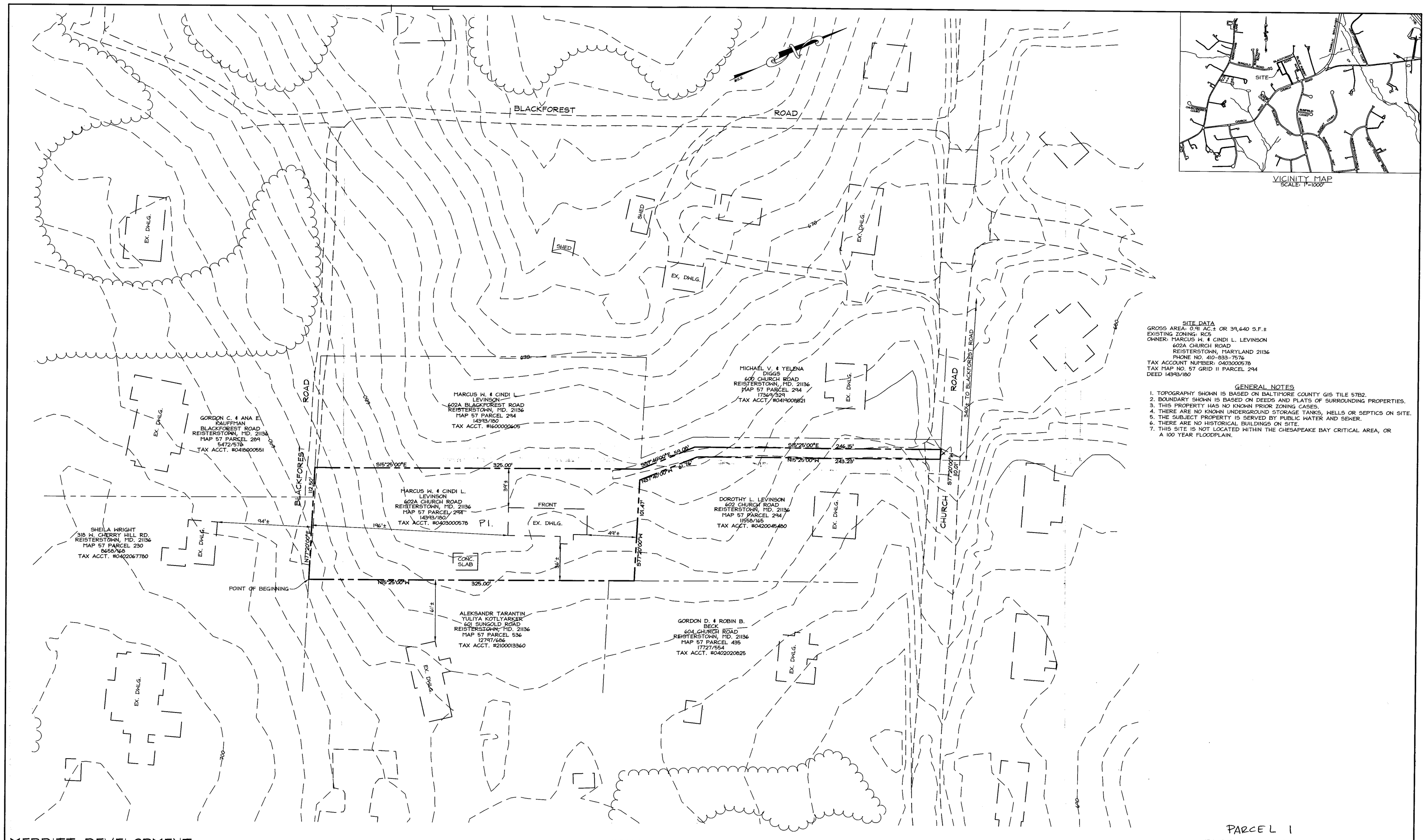
RELIEF REQUESTED:
APPROVAL OF A RESIDENTIAL LOT IN A RC-5 ZONE HAVING A LAND AREA OF 0.91 (39,640 SQUARE FEET, MORE OR LESS) OF AN ACRE, MORE OR LESS, IN LIEU OF THE REQUIRED 1.5 ACRES (65,340.00 SQUARE FEET).

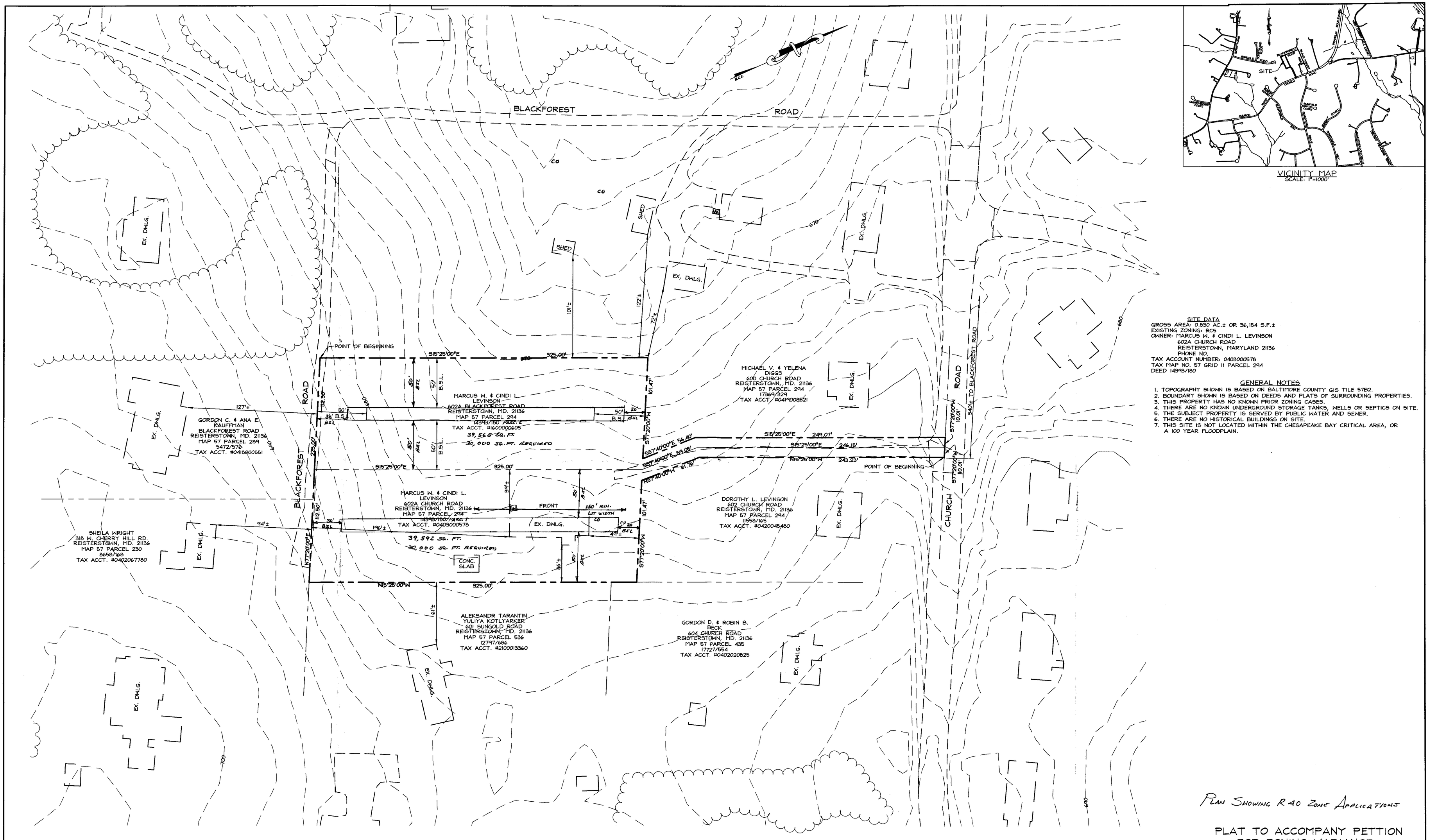
Parcel 2
PLAT TO ACCOMPANY PETTION
FOR ZONING VARIANCE
AND SPECIAL HEARING
602A CHURCH ROAD

DISTRICT 4C4 BALTIMORE COUNTY, MD
SCALE: 1"=40' OCTOBER 24, 2006

06107

211 Petit #2


BLACKFOREST ROAD
BLACKFOREST ROAD
CHURCH ROAD
EX. DWLG.
SHED
SHED
EX. DWLG.
EX. DWLG.
EX. DWLG.



VICINITY MAP
SCALE: 1"=1000'

SITE DATA
GROSS AREA: 0.830 AC.± OR 36,154 S.F.±
EXISTING ZONING: RC5
OWNER: MARCUS W. & CINDI L. LEVINSON
602A CHURCH ROAD
REISTERSTOWN, MARYLAND 21136
PHONE NO.
TAX ACCOUNT NUMBER: 0403000578
TAX MAP NO. 57 GRID 11 PARCEL 294
DEED 14393/180

GENERAL NOTES
1. TOPOGRAPHY SHOWN IS BASED ON BALTIMORE COUNTY GIS TILE 57B2.
2. BOUNDARY SHOWN IS BASED ON DEEDS AND PLATS OF SURROUNDING PROPERTIES.
3. THIS PROPERTY HAS NO KNOWN PRIOR ZONING CASES.
4. THERE ARE NO KNOWN UNDERGROUND STORAGE TANKS, WELLS OR SEPTICS ON SITE.
5. THE SUBJECT PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
6. THERE ARE NO HISTORICAL BUILDINGS ON SITE.
7. THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA, OR A 100 YEAR FLOODPLAIN.

PLAN SHOWING R40 ZONE APPLICATIONS

MERRITT DEVELOPMENT CONSULTANTS, INC.
9831 MAGLEDT ROAD
BALTIMORE , MARYLAND
PHONE: 410-663-5525 FAX:410-663-4315

VARIANCE REQUEST:
MINIMUM SIDE OF INDIVIDUAL SIDE YARD WIDTH OF 40' (EAST SIDE OF PROPERTY) AND 46' (WEST SIDE OF PROPERTY) IN LIEU OF THE REQUIRED MINIMUM 50' SHOWN IN THE BALTIMORE COUNTY ZONING REGULATIONS MANUAL IN SECTION 1A04.3.2.b.

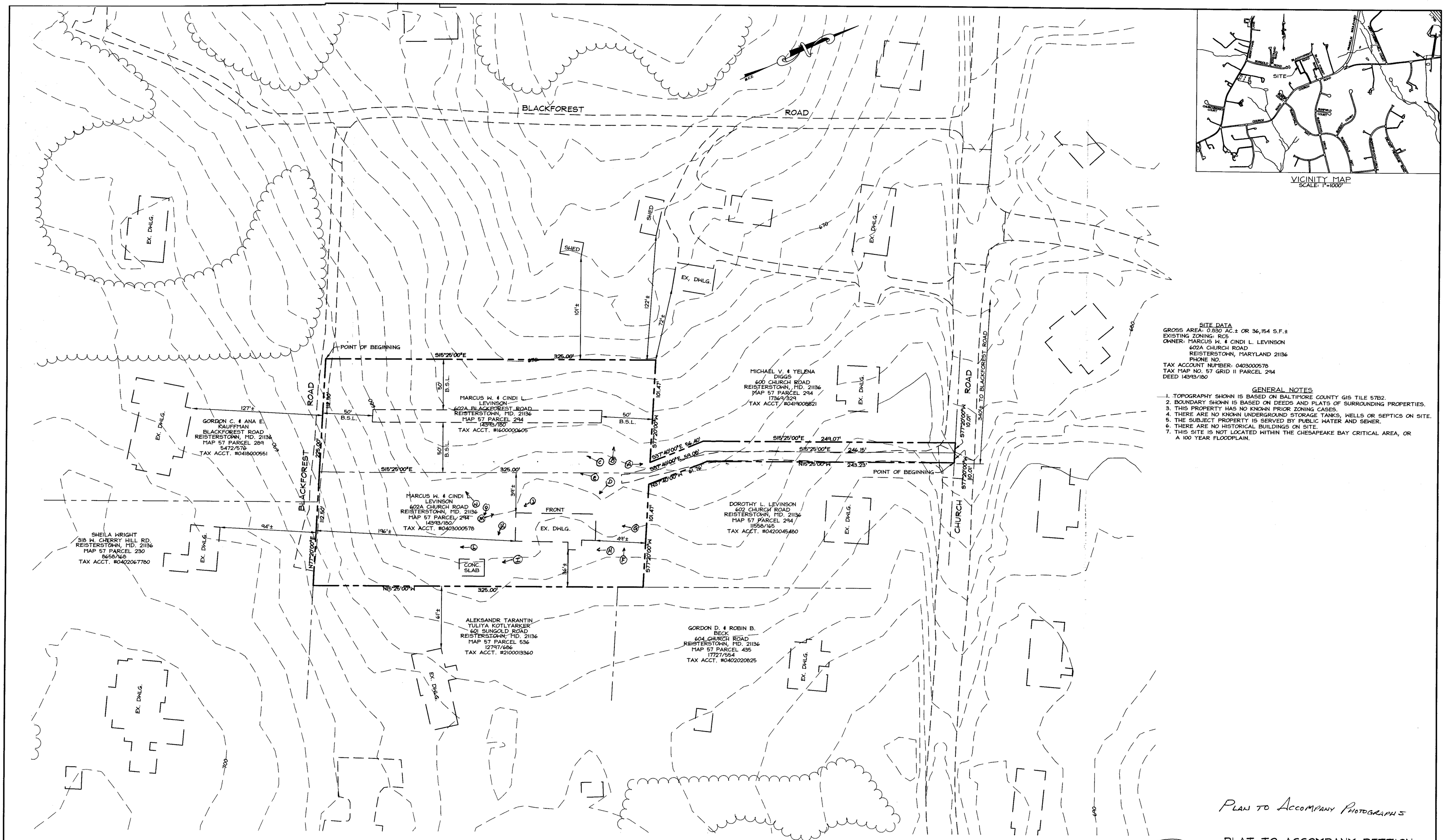
RELIEF REQUESTED:
APPROVAL OF A RESIDENTIAL LOT IN A RC-5 ZONE HAVING A LAND AREA OF 0.91 (39,640 SQUARE FEET, MORE OR LESS) OF AN ACRE, MORE OR LESS, IN LIEU OF THE REQUIRED 1.5 ACRES (65,340.00 SQUARE FEET).

PLAT TO ACCOMPANY PETTION FOR ZONING VARIANCE AND SPECIAL HEARING
602A CHURCH ROAD

DISTRICT 4C4 BALTIMORE COUNTY, MD
SCALE: 1"=40' JUNE 6, 2006

06107

C/BA
PET. EXH
NO. 3



VICINITY MAP
SCALE: 1"=1000'

SITE DATA
GROSS AREA: 0.830 AC.± OR 36,154 S.F.±
EXISTING ZONING: RC5
OWNER: MARCUS W. & CINDI L. LEVINSON
602A CHURCH ROAD
REISTERSTOWN, MARYLAND 21136
PHONE NO.
TAX ACCOUNT NUMBER: 0403000578
TAX MAP NO. 57 GRID 11 PARCEL 294
DEED 14393/180

GENERAL NOTES
1. TOPOGRAPHY SHOWN IS BASED ON BALTIMORE COUNTY GIS TILE 57B2.
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3. THIS PROPERTY HAS NO KNOWN PRIOR ZONING CASES.
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6. THERE ARE NO HISTORICAL BUILDINGS ON SITE.
7. THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA, OR A 100 YEAR FLOODPLAIN.

PLAN TO ACCOMPANY PHOTOGRAPHS

MERRITT DEVELOPMENT CONSULTANTS, INC.
9831 MAGLEDT ROAD
BALTIMORE , MARYLAND
PHONE: 410-663-5525 FAX:410-663-4315

VARIANCE REQUEST:
MINIMUM SIDE OF INDIVIDUAL SIDE YARD WIDTH OF 40' (EAST SIDE OF PROPERTY) AND 46' (WEST SIDE OF PROPERTY IN LIEU OF THE REQUIRED MINIMUM 50' SHOWN IN THE BALTIMORE COUNTY ZONING REGULATIONS MANUAL IN SECTION 1A04.3.2.b.

RELIEF REQUESTED.
APPROVAL OF A RESIDENTIAL LOT IN A RC-5 ZONE HAVING A LAND AREA OF 0.91 (39,640 SQUARE FEET, MORE OR LESS) OF AN ACRE, MORE OR LESS, IN LIEU OF THE REQUIRED 1.5 ACRES (65,340.00 SQUARE FEET).

CBA
PET. EX
No. 4

PLAT TO ACCOMPANY PETTION FOR ZONING VARIANCE AND SPECIAL HEARING
602A CHURCH ROAD

DISTRICT 4C4 BALTIMORE COUNTY, MD
SCALE: 1"=40' JUNE 6, 2006

06107

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE, AND VARIANCE	*	BEFORE THE
SW side of Church Road, 340 feet SE of Blackforest Road	*	DEPUTY ZONING COMMISSIONER
4th Election District	*	FOR
4th Councilmanic District **(602A Church Road)**	*	BALTIMORE COUNTY
W. Marcus and Cindi Lynn Levinson *Petitioner*	* *	CASE NO. 07-211-SPHA and CASE NO. 07-210-A

* * * * * * * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing and Variance (Case No. 07-211-SPHA) and Variance (Case No. 07-210-A) filed by the legal owners of the subject property, W. Marcus and Cindi Lynn Levinson. The Petitioners are requesting Special Hearing relief for property owned at 602A Church Road.

The Petitioners are seeking a Variance (Case No. 07-210-A) to permit an individual side yard on the east side of the existing dwelling of thirty-six (36) feet in lieu of the required fifty (50) feet; and to permit an individual side yard on the west side of the existing dwelling of thirty-nine (39) feet in lieu of the required fifty (50) feet.

In Case No. 07-211-SPHA the Special Hearing request is filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a lot having a land area of 0.91 acres in lieu of the required 1.5 acres and a variance from Section 1A04.3.2.b to permit an individual side yard on the east side of a proposed dwelling of thirty-six (36) feet in lieu of the required fifty (50) feet; and to permit an individual side yard on the west side of a proposed dwelling of thirty-six (36) feet in lieu of the required fifty (50) feet.

The property was posted with Notice of Hearing on December 7, 2006, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition,

3-15-07

a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on December 26, 2006, to notify any interested persons of the scheduled hearing date.

Applicable Law

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

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

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

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

Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Bureau of Environmental Planning and Resource Management dated December 29, 2006 which contains restrictions, and a copy of which is incorporated herein and made a part hereof the file.

375-07
B3

Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief were W. Marcus Levinson, Petitioner, and Lawrence M. Hammond, Esquire, who represented the Petitioner. There were no protestants or citizens at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The subject property contains 1.8 acres zoned RC 5 and is improved by the Petitioner's single family dwelling as shown in Exhibit 1. Access to Church Road is given by a panhandle driveway approximately 20 feet wide as shown.

Mr. Hammond indicated that the property is composed of two parcels which are reflected in the Petitioner's deed, Petitioner's Exhibit 3 and shown pictorially on the redline tax map, Exhibit 4. Parcel 1 is listed as being one half of lot 10 and part of lot 2 of an unrecorded plat of John C. Whitaker's Land. Parcel 2 is listed similarly as being one half of lot 10 and part of lot 2 of the unrecorded plat of John C. Whitaker's Land.

The Petitioners' existing single family home is located on Parcel 1 as shown on Exhibit 1 and the Petitioners propose a new single family dwelling on parcel 2 as shown in Exhibit 2. Parcel 2 is presently vacant. Each parcel has its own tax assessment account as shown in the SDAT data sheets, Exhibits 5A and 5B.

The need for variances arises for the existing house because the house is approximately 36 feet from the eastern property line and 39 feet from the common boundary. RC 5 regulations require a 50 foot side yard setback.

In regard to the proposed dwelling, as shown on Exhibit 2, the proposed home would be 36 feet from both the common boundary and the western property line. Again 50 feet is

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required. In addition the Petition requests approval by special hearing for Parcel 2 for a lot size of 0.91 acres (39,640 square feet) in lieu of the 1.5 acres required by the RC 5 regulations. He opined that Parcel 2 was a lot of record prior to 1981 when the division of the property was divided by deed.

In regard to the latter, Mr. Hammond proffered that the unrecorded Whitaker plat was created in 1945, and the property had previously been zoned R-40 in 1955 which allowed lots of 30,000 feet so that under R-40 both lots would have been allowed. However he noted that in 1971 the property was rezoned to RDP and then later rezoned to RC 5 with the present 1.5 acre minimum size. The existing home was built in 1968 and met the RDP regulations.

In regard to zoning merger, he noted that there have never been any improvements built on parcel 2, the only use the Petitioner made of it was to cut the grass (see photographs of Exhibit 6) and again each parcel has its own tax assessment account (Exhibit 5). Therefore he opined there has been no zoning merger.

He also opined that allowing a new house on Parcel 2 would be compatible with the pattern of development of the neighborhood as there is an existing house similarly located to the Petitioner's house to the east of the property as shown on Exhibits 1 and 2 and photograph Exhibit 7. He noted that no one came to the hearing to object to the proposed home and opined that allowing the new home on Parcel 2 would be within the spirit and intent of the regulations which encourage small in fill development such as being proposed.

At this point in the hearing, a general discussion of whether or not the proposed subdivision would create the need for variances and therefore be self imposed. In response to this question, the record of the case was held open to allow the Petitioner to present written argument which was received March 9, 2007. In the Memorandum Mr. Hammond noted the

3-15-07

above facts and further asserted that the subject parcels have been assessed separately since 1969. He further proffered that the improved lot was conveyed by Arlington Contractors Inc to Mr. and Mrs Carpenter by deed dated April 2, 1969 and thereafter the same parties conveyed the unimproved parcel by a separate deed in 1970. He noted that both parcels met the area regulations of the RDP zone when created by deed in 1969 and that DPDM recognizes lots created by deed before 1981 as legitimate lots of record. He also noted that the parcels meet the definition of lot of record of Section 101 of the BCZR and as such can be considered for relief under the RC 5 regulations as they were in existence prior to September 2003 and a not located in a subdivision. Finally he argued that parcel 2 is a legal lot with size close to the prior RC 5 area regulations and should be approved.

Findings of Fact and Conclusions of Law

In regard to zoning merger the evidence for merger is that the two parcels are adjacent, in common ownership and were conveyed together to the Petitioners in a single deed. The evidence against merger is that the parcels were conveyed separately in the past, have separate tax assessment accounts (albeit the assessment for parcel 2 is miniscule) and there have been no improvements on parcel 2 which would indicate a desire by this or a former owner to merge the lots. On balance I find the parcels have not merged in a zoning sense.

I raised the issue of self imposed hardship at the hearing being concerned that the Petitioner was proposing a division of the property as a new subdivision. In this case the Petitioner would have scribed the boundary creating the two parcels and therefore created the need for variances which by definition would be a self imposed hardship. It was not clear to me at the time that the parcels were created prior to 1981 when the County began to require the

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division of all property go through the development regulations. The Petitioner's house was built on parcel 1 in 1968 according to the SDAT data sheet.

However Mr. Hammond asserts in his post hearing memorandum that parcel 1 was conveyed by Arlington Contractors Inc to Mr. and Mrs. Carpenter by deed dated April 2, 1969 and thereafter the same parties conveyed the unimproved parcel by a separate deed in 1970. He noted that both parcels met the area regulations of the RDP zone at the time and consequently were legal lots of record. Although I have no specific exhibit confirming this proffer, I have no reason to doubt the veracity of his statements regarding the conveyances. Based on those assertions I find the property was divided by deed in 1969.

However I have questions about his statement that the applicable zoning regulations are RDP. From my research, RDP was created by Bill 100 in 1970 and applied thereafter in 1972 during the comprehensive mapping process. See exhibit A attached. Also RDP required a minimum lot size of one acre or 43,560 sq. ft. Neither parcel would meet this requirement.

On the other hand Mr. Hammond indicated at the hearing that the property was previously zoned R40. In my mind this is the likely zoning regulation applicable at the time the division of the property was made by deed. R-40 zoning required lots having 40,000 square feet except under Section 202.1. See exhibit B attached. However two or more lots in the same ownership and in the same tract are permitted to have a minimum lot area of 30,000 square feet if the average of the lot sizes in the same ownership and in the same tract equals 40,000 square feet.

Unfortunately for the Petitioner, parcel 1 and parcel 2 do not meet the 40,000 square feet size nor the exception permitting 30,000 square feet size because the average of the two parcels is less than 40,000 square feet. For parcel 2 to meet this regulation, parcel 1 would have had to

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be 40,360 square feet. As shown on Exhibit 1, parcel 1 is 39,640 square feet. Again these lots did not meet the one acre minimum size (43,560 square feet) when the tract was rezoned to RDP, or the original area requirement of RC 5. The present requirement is for lot size of 1.5 acres.

Consequently I find that the parcels were not legal lots because they did not meet the zoning regulations in effect at the time of creation in 1969. I further find that that neither parcel is a lot of record as defined in the definitions of the BCZR. Consequently parcel 2 is not eligible for the relief allowed under the special hearing regulations for RC 5. Consequently I will deny the request for special hearing. In regard to the request for variance, I will also deny these requests as moot given the result of the special hearing.

This problem illustrates the hazards of creating lots by deed and not through the County subdivision process which was in place in 1969. I recognize the County allowed property to be subdivided by deed prior to June 11, 1982 when the CRG review process became effective. However creating lots by deed ran the risk the proposed lots would not meet the applicable regulations such as happened here. In 1969 Arlington Contractors had only to apply to the County for the minor subdivision, review would have shown the parcels were too small, a routine variance would have been requested for lot size and like been granted. There was no *Cromwell v Ward* in 1969. But they chose not to go through the trouble and expense to the detriment of the Petitioner's and their successors.

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

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 15th day of March, 2007, that the Petitioners' request in Case No. 07-210- A for

Variance to permit an individual side yard on the east side of the existing dwelling of thirty-six (36) feet and to permit an individual side yard on the west side of the existing dwelling of thirty nine (39) feet in lieu of the required fifty (50) feet is hereby DENIED as moot; and

IT IS FURTHER ORDERED, the Petitioner's request for Special Hearing request in Case No. 07-211-SPHA filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a lot having a land area of 0.91 acres in lieu of the required 1.5 acres is hereby DENIED; and

IT IS FURTHER ORDERED, the Petitioner's request for Variance in Case No. 07-211-SPHA to permit an individual side yard on the east side of a proposed dwelling of thirty-six (36) feet and to permit an individual side yard on the west side of the existing dwelling of thirty six (36) feet in lieu of the required fifty (50) feet is hereby DENIED; as moot.

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

PUBLIC HEARING FEES
37507
BB

IN THE MATTER OF THE APPLICATION OF W. MARCUS AND CINDI LYNN LEVINSON LEGAL OWNERS FOR A SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE SW/S OF CHURCH RD, 340' SE OF BLACK FOREST RD (602A CHURCH ROAD)	* * * * * *	BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 07-210-A
4TH ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT	* *	AND CASE NO. 07-211-SPHA

* * * * * * *

OPINION

This matter comes before the Board of Appeals for Baltimore County as an appeal of the Deputy Zoning Commissioner's (DZC) Order dated March 15, 2007 denying Petitioners' request in Case No. 07-210-A for a variance to permit an individual side yard of thirty-six (36) feet on the east side of the existing dwelling and an individual side yard of thirty-nine (39) feet on the west side of the existing dwelling in lieu of the required fifty (50) feet. In addition, the DZC denied Petitioners' request for Special Hearing in case No. 07-211-SPHA filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (BCZR) to permit a lot having a land area of 0.91 acres in lieu of the required 1.5 acres, and denied Petitioners' request for a variance in case No.: 07-211-SPHA to permit an individual side yard of thirty-six (36) feet on the east side of the proposed dwelling and to permit an individual side yard of thirty-six (36) feet on the west side of the existing dwelling in lieu of the required fifty (50) feet.

On Wednesday, May 14, 2008 at 10:00 a.m., the Board held a public *de novo* hearing of both cases. The Petitioners /Appellants, W. Marcus and Cindi Lynn Levinson, were represented by Lawrence M. Hammond, Esquire. The Office of People's Counsel was represented by Carole S. Demilio, Esquire. The Office of People's Counsel submitted its post-hearing memorandum

on June 13, 2008. A public deliberation was held by the Board on Thursday, July 10, 2008 at 9:30 a.m.

Background

The subject property consists of two adjacent parcels, which were created by deed in 1968. The size of the two parcels is 1.8 acres and they are zoned RC 5. The two parcels are located at 602A Church Road in the 4th Election District and the 4th Councilmanic District of Baltimore County. The two parcels are assessed separately for real estate tax purposes. Parcel No.1 is improved by a residence that was constructed in 1969, and consists of a land area of 36,154 square feet. Parcel No.2 is unimproved and consists of a land area of 36,155 square feet. The Petitioners have resided on Parcel No.1 since 2000.

The parcels were zoned R40 in 1968 when they were created. The R40 zoning classification required a minimum lot size of 40,000 square feet except for two or more lots in the same ownership and in the same tract wherein a minimum of 30,000 square feet is permitted if the average of all the lot sizes in the same ownership and same tract equals 40,000 square feet or more. The parcels were rezoned to RDP in 1971. RDP was created by County Council Bill No. 100 in 1971 and required a lot size of 43,500 square feet. The parcels were rezoned to RC5 in 1988 as part of the Comprehensive Zoning Map Process. RC5 zoning increased the lot size requirement from 1 acre to 1.5 acres and density to 0.5 acre. It requires 2 acres to support one dwelling. Parcels numbers 1 and 2 are 1.8 acres in total.

Issue

Can the Petitioners construct a residence on Parcel No.2, which is presently zoned RC5?

As stated above, Parcel No. 2 is 0.91 acres and 36,155 square feet in size. RC5 zoning requires an area of 1.5 acres and 0.5 density. The parcel is adjacent to and under common

ownership with Parcel No.1 on Church Road. The two lots together total 1.8 acres. There is an existing dwelling on Parcel No.1. The two lots were created by deed in 1968 and were zoned R40 at the time. The existing dwelling on Parcel No. 1 was constructed in 1969.

Petitioners contend that the two parcels were part of the "John Whitaker" tract, which is an unrecorded plat created in 1945. The Petitioners have requested a Special Hearing to permit construction of a residence on Parcel No. 2 and if the Special Hearing request is granted, have requested variances for setbacks on both Parcel Nos. 1 and 2.

Testimony and Evidence

Mr. Hammond presented Mr. Bruce E. Doak, who is a principal with Merritt Development Consultants, Inc. and oversees development, surveying, land planning, and zoning. Mr. Doak was accepted as an expert witness.

Mr. Doak testified that Parcel Nos. 1 and 2 were conveyed by a deed executed by and between James M. Carpenter III, Personal Representative of the Estate of Dorothy V. Carpenter, Grantors, and W. Marcus Levinson and Cindi Lynn Levinson on March 31, 2000. (Petitioners' Exhibit No. 1) Parcel No.1 was improved by a residence that was built in 1968, and Parcel No 2 is vacant. Both parcels were zoned R40 at the time the deed was executed. Mr. Doak testified that R40 zoning requires a minimum of 40,000 square feet or 30,000 square feet if all of the lots in the tract average 40,000 square feet. Mr. Doak testified that the tract used to measure the lot size was the John Whitaker tract, an unrecorded plat created in 1945. Mr. Doak could not produce a copy of the John Whitaker subdivision tract to calculate the lot size averaging under the R40 regulations.

People's Counsels Exhibits No. 1, No. 2, and No. 3 indicate that the two parcels were created by Deed dated May 29, 1968 between William T. Heiland, Jr., and Carolyn D. Heiland and Arlington Contractors, Inc. Subsequently, the two parcels were conveyed by Arlington

Contractors Inc., to the Carpenters by Deeds dated April 2, 1969 and January 23, 1970. Mr. Doak did not dispute that the parcels were created by Deed in 1968. Mr. Doak testified that there was no evidence of merger of the two parcels. He testified that there is adequate area for a septic system and well on Parcel No. 2. He testified that RC5 zoning requires 1.5 acre and R40 one acre. He did not survey Parcel No. 2. He testified that if a house were built on Parcel No. 2 it would face the existing dwelling on Parcel No. 1 and would not be incompatible to the other properties in the area. He described the relief requested as a request for a variance. He testified that the Petitioners would have a hardship if the variances were not granted because they would not be able to build on Parcel No. 2 without the variances.

Ms. Demilio, on cross-examination of Mr. Doak, reviewed several Baltimore County regulations as they pertain to area requirements, particularly Section 202.1 of the BCZR, which explains the area regulations for the R40 zone; the *Baltimore County Code* (BCC) Article IV Section 22-32 Subdivision Regulations, BCC Section 22-33 Exception of Governmental Approval of Subdivision Regulations, and BCC Section 102 General Requirements.

Mr. Hammond presented Petitioner, W. Marcus Levinson, as his second and last witness. Mr. Levinson testified that his mother's lot is adjacent to and is approximately the same size as Parcel No. 1 which is the location of his existing residence. He testified that he always believed that he had two separate lots.

Decision

After thorough review of the testimony, evidence, People's Counsel Post-Hearing Memorandum, and the law, it is the unanimous opinion of this Board that Petitioners do not meet the requirements of lot size in an RC5 zone nor the limited exception under Baltimore County Zoning Regulation 1A04.3B1b1, which states:

> The owner of a single lot of record that is not a subdivision, that is in existence prior to September 2, 2003, does not meet the minimum acreage requirement or

does not meet the setback requirement of paragraph 2 may apply for a Special Hearing under Article V to alter the minimum lot size requirement however the provisions of section 1A04.4 may not be varied.

We agree with People's Counsel Memorandum page 5, which states:

The exception applies to those rare occasions where the owner has held one undeveloped lot that may have met the prior zoning requirements on the site but which does not satisfy the current standards. The exception provides the property owner in these instances with a use for the site. But if a property owner owns two contiguous undersized lots, then the owner can construct one dwelling, which allows for a reasonable use that conforms as nearly as possible to the current regulations.

The Petitioner does not own just a single lot as the exception to the RC5 regulation requires but owns two adjacent lots. We agree with Mr. Levinson that he owns two lots as he testified; however, the problem is that when he purchased the property back in 2000 the two lots had been rezoned to RC5, and therefore they do not qualify as to the size that RC5 regulation requires. Had the Levinsons owned the two lots since they were created back in 1968, it is very possible that the exception to the RC5 zoning classification would apply for them although even that exception is questionable. Absent the John Whitaker tract, it is not possible to make any kind of a calculation as to whether the average of the lots in the Whitaker tract would average out to 40,000 square feet and if that would be the case, then the lot in question, Parcel No. 2, would qualify; but without that evidence being presented, there is no way that we can make a judgment that had the Levinsons owned the property in 1968, they would qualify for the RC5 exception.

Because the Petitioners do not meet the requirements of lot size in an RC5 zone nor the limited exception under BCZR 1A04.3B1b1, their request for special hearing and variance in Case No. 07-211-SPHA is denied, and the variance request in Case No. 07-210-A is also denied.

It should be noted that Counsel for the Petitioners did not submit a Post-Hearing Memorandum.

ORDER

THEREFORE, IT IS, this 12th day of August, 2008, by the Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing in Case No. 07-211-SPHA to permit a lot having a land area of 0.91 acres in lieu of the required 1.5 acres in a RC5 is **DENIED**; and it is further

ORDERED that the Petitions for Variances in Case No. 07-210-A and Case No. 07-211-SPHA for a variance of the required side yards for Parcels number 1 and 2 are **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 Crizer, Chairman

Lawrence Wescott

Robert Witt

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

March 15, 2007

WILLIAM J. WISEMAN III
Zoning Commissioner

LAWRENCE M. HAMMOND
PO BOX 569
REISTERSTOWN MD 21136

Re: Petition for Special Hearing and Variance
Case No. 07-211-SPHA and 07-210-A
Property: 602A Church Road

Dear Mr. and Mrs. Levinson:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy

John V. Murphy
Deputy Zoning Commissioner
for Baltimore County

JVM:pz
Enclosure

c: W. Marcus and Cindi Lynn Levinson, 602A Church Road, Reisterstown MD 21123

HAMMOND & HAMMOND, L.L.C.
ATTORNEYS AT LAW
465 MAIN STREET
P. O. BOX 569
REISTERSTOWN, MARYLAND 21136-0569
(410) 833-7576
FAX: (410) 833-4744

LLOYD J. HAMMOND (RETIRED)
LAWRENCE M. HAMMOND

OF COUNSEL
DOUGLAS S. CURTIS

April 16, 2007

BY HAND DELIVERY

Timothy Kotroco, Esquire
Director, Department of
Permits & Development Management
County Office Building
Chesapeake Avenue
Towson, MD 21204

RE: Petition for Special Hearing and Variance
Case No. 07-211-SPHA and 07-210-A
Property: 602A Church Road

Dear Mr. Murphy:

Please be advised that the Petitioners in the above referenced matter hereby appeal the decision of the Deputy Zoning Commissioner dated March 15, 2007.

Thank you for your cooperation in this matter.

Sincerely yours,

Lawrence M. Hammond

LMH:dje
Enclosure as noted
cc: Mr. & Mrs. Marcus Levinson

RECEIVED
APR 16 2007
Per.

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 602A Church Road P2

which is presently zoned RC5

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) 1A04.3.2.b of the Baltimore County Zoning Regulations requesting an individual side yard on the east side of the existing dwelling of Thirty six (36') feet in lieu of the required Fifty (50') feet; 1A04.3.2.b of the the Baltimore County Zoning Regulations requesting an individual side yard on the west side of the existing dwelling of Thirty six (36') feet in lieu of the required Fifty (50') feet. of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

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:

Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Legal Owner(s):

W. Marcus Levinson
Name - Type or Print

Signature

Cindi Lynn Levinson
Name - Type or Print

Signature

602A Church Road — (410) 526-6214
Address — Telephone No.

Reisterstown, MD 21123
State — Zip Code

Attorney For Petitioner:

Lawrence M. Hammond
Name - Type or Print

Signature

Hammond & Hammond, L.L.C.
Company

465 Main Street, PO BOX 569 (410)833-7576
Address — Telephone No.

Reisterstown, MD 21136
City — State — Zip Code

Representative to be Contacted:

Lawrence M. Hammond
Name

P.O. Box 569, Re — (410) 833-7576
Address — Telephone No.

Reisterstown, MD 21136
City — State — Zip Code

OFFICE USE ONLY

Case No. 07-211-SPHA

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By LTM Date 11/8/06

REV 9/15/98

3/5/07

PM

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 602A Church Road P2
which is presently zoned RC-5

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

* 1A04.3.B of the BCZR a lot having a land area of 0.91 (39,640 square feet) of an acre, more or less in lieu of the required 1.5 (65,340.00 square feet) acres.

* 1A04.3.B1.b(1)

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Legal Owner(s):

W. Marcus Levinson
Name - Type or Print

Signature

Cindi Lynn Levinson
Name - Type or Print

Signature

602A Church Road (410) 526-6214
Address Telephone No.

Reisterstown, MD 21136
City State Zip Code

Attorney For Petitioner:

Lawrence M. Hammond
Name - Type or Print

Signature

Hammond & Hammond, LLC
Company

465 Main Street, P.O. Box 569
Address Telephone No.

Reisterstown, MD 21136
City State Zip Code

Representative to be Contacted:

Lawrence M. Hammond
Name

465 Main Street (410) 833-7576
Address Telephone No.

Reisterstown, MD 21136
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By LTM Date 11/8/06

Case No. 07-211-SPHA

REV 9/15/98

RECEIVED FOR FILING
Date 3/5/07
By

ZONING DESCRIPTION OF 602A BLACKFOREST ROAD

Beginning for the same at a point in the center of a 15' wide roadway known as Black Forest Road and at the end of the second line of Lot no. 9 as shown on an unrecorded plat of John c. Whitakers land, thence running reversely on this line 1) South 15-25-00 East 325.00' to the northern most side of lot 3, thence binding on the division line between Lot 10 and Lot 2 and Lot 3 2) South 77-20-00 West 101.47' to the east side of a 20' road. Thence binding on the east side of said road 3) South 37-40-00 East 56.40' and 4) South 15-25-00 East 249.07' to the center of Old Church Road, thence binding on the centerline of aforesaid road 5) South 77-20-00 10.01' to the center of said 20' road. Thence binding on the center of Church Road 6) North 15-25-00 West 246.15' and 7) North 37-40-00 59.08', thence binding on the center of Lot 10 8) North 15-25-00 325.00' to the center of Black Forest Road, thence binding on the center of said road 9) North 77-20-00 112.50' to the point of beginning.

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: # 07-211-SPHA
602A Church Road; Parcel 2
S/west side of Church Road, 340 feet s/east of Blackforest Road
4th Election District - 4th Councilmanic District
Legal Owner(s): W. Marcus & Cindi Lynn Levinson

Special Hearing: To approve, pursuant to Section 1A04.3.B1.b(1) of the BCZR a lot having a land area of 0.91 (39,640 sq. ft.) of an acre, more or less in lieu of the required 1.5 (65,340.00 square ft.) acres. **Variance:** To permit an individual side yard on the east side of the existing dwelling of thirty-six (36) feet in lieu of the required fifty (50) feet; and to permit an individual side yard on the west side of the exisiting dwelling of thirty-six (36) feet in lieu of the required fifty (50) feet.

Hearing: Thursday, January 11, 2007 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 12/767 Dec. 26 119958

CERTIFICATE OF PUBLICATION

12/28/, 2006

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 12/26/2006.

- [x] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 21757

DATE 11/8/06 ACCOUNT R001 006 6150

AMOUNT $ 130.00

RECEIVED FROM: 07-211 SPHA

FOR: HAMMOND, HAMMOND LLC

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
11/08/2006	11/08/2006	14:49:41	1

REG WSOL HALKIAS JRIC JHR
>>RECEIPT # 308273 11/08/2006 OPLN
Dept S 528 ZONING VERIFICATION
CR NO. 021757
Rcpt Tot $130.00
$195.00 CK $ .00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case No.: 07-211-SPHA.

Petitioner/Developer:

W. Marcus & Cindi Lynn Levinson.

Date of Hearing/Closing: 01/11/07

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 W. Chesapeake Avenue
Towson, MD 21204

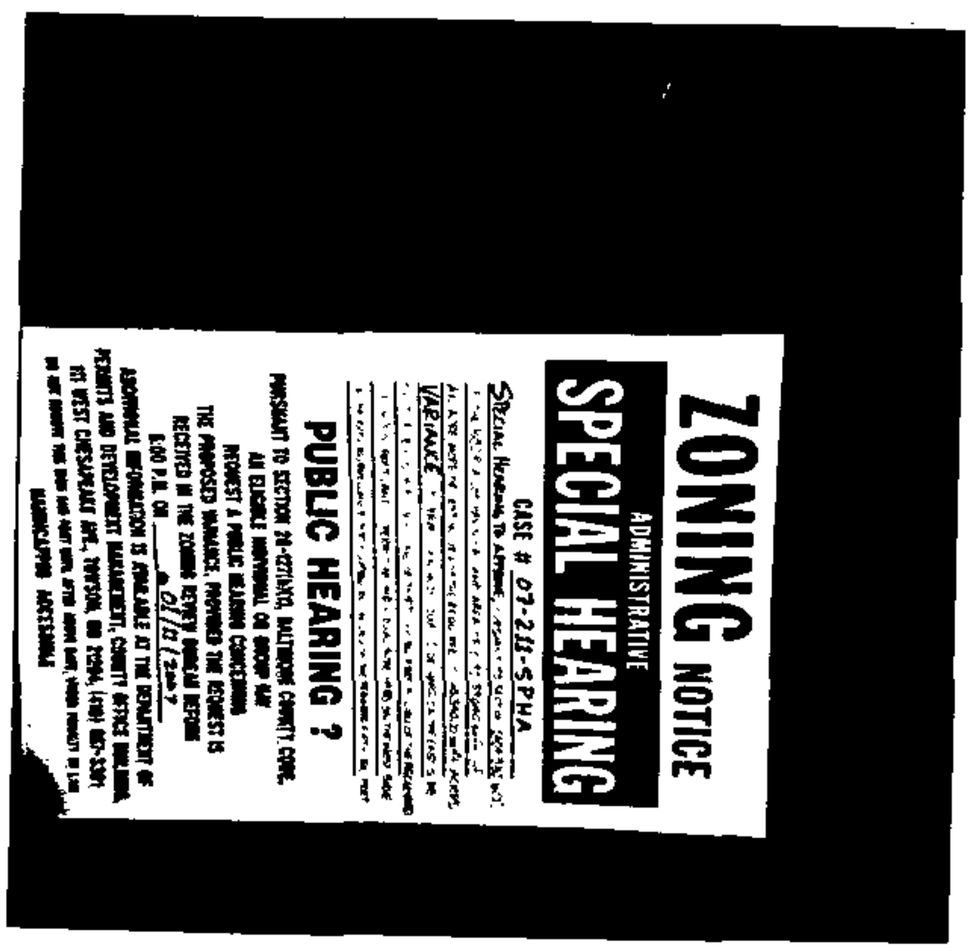
Attention:

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 property at

602A Church Road.

The sign(s) were posted on 12/7/06
(Month/Day/Year)



12/7/06

Sincerely,

12/08/06
(Signature of Sign Poster/Date)

SANDRA E GOLF
(Printed Name)

SHANNON-BAUM SIGNS INC.
105 COMPETITIVE GOALS DR.
ELDERSBURG, MD. 21784
(Address)

410-781-4000

Department of Permits and Development Management

Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

November 20, 2006

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 07-211-SPHA
602A Church Road, Parcel 2
S/west side of Church Road, 340 feet s/east of Blackforest Road
4th Election District – 4th Councilmanic District
Legal Owners: W. Marcus & Cindi Lynn Levinson

Special Hearing to approve, pursuant to Section 1A04.3.B1.b(1) of the BCZR a lot having a land area of 0.91 (39,640 sq. ft.) of an acre, more or less in lieu of the required 1.5 (65,340.00 square ft.) acres. Variance to permit an individual side yard on the east side of the existing dwelling of thirty-six (36) feet in lieu of the required fifty (50) feet; and to permit an individual side yard on the west side of the existing dwelling of thirty-six (36) feet in lieu of the required fifty (50) feet.

Hearing: Thursday, January 11, 2007 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

C: Lawrence Hammond, 465 Main Street, P.O. Box 569, Reisterstown 21136
Mr. & Mrs. Levinson, 602A Church Road, Reisterstown 21136

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, DECEMBER 27, 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.

Printed on Recycled Paper

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

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

For Newspaper Advertising:

Item Number or Case Number: 07-211-SPHA

Petitioner: W. Marcus Levinson & Cindi Lynn Levinson

Address or Location: 602 A Church Road, Reisterstown, MD 21136

PLEASE FORWARD ADVERTISING BILL TO:

Name: W. Marcus Levinson

Address: 602 A. Church Road
Reisterstown MD 21136

Telephone Number: (410) 526-6214

Revised 2/20/98 - SCJ

TO: PATUXENT PUBLISHING COMPANY
Tuesday, December 26, 2006 Issue - Jeffersonian

Please forward billing to:
W. Marcus Levinson
602A Church Road
410-526-6214

410-526-6214

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

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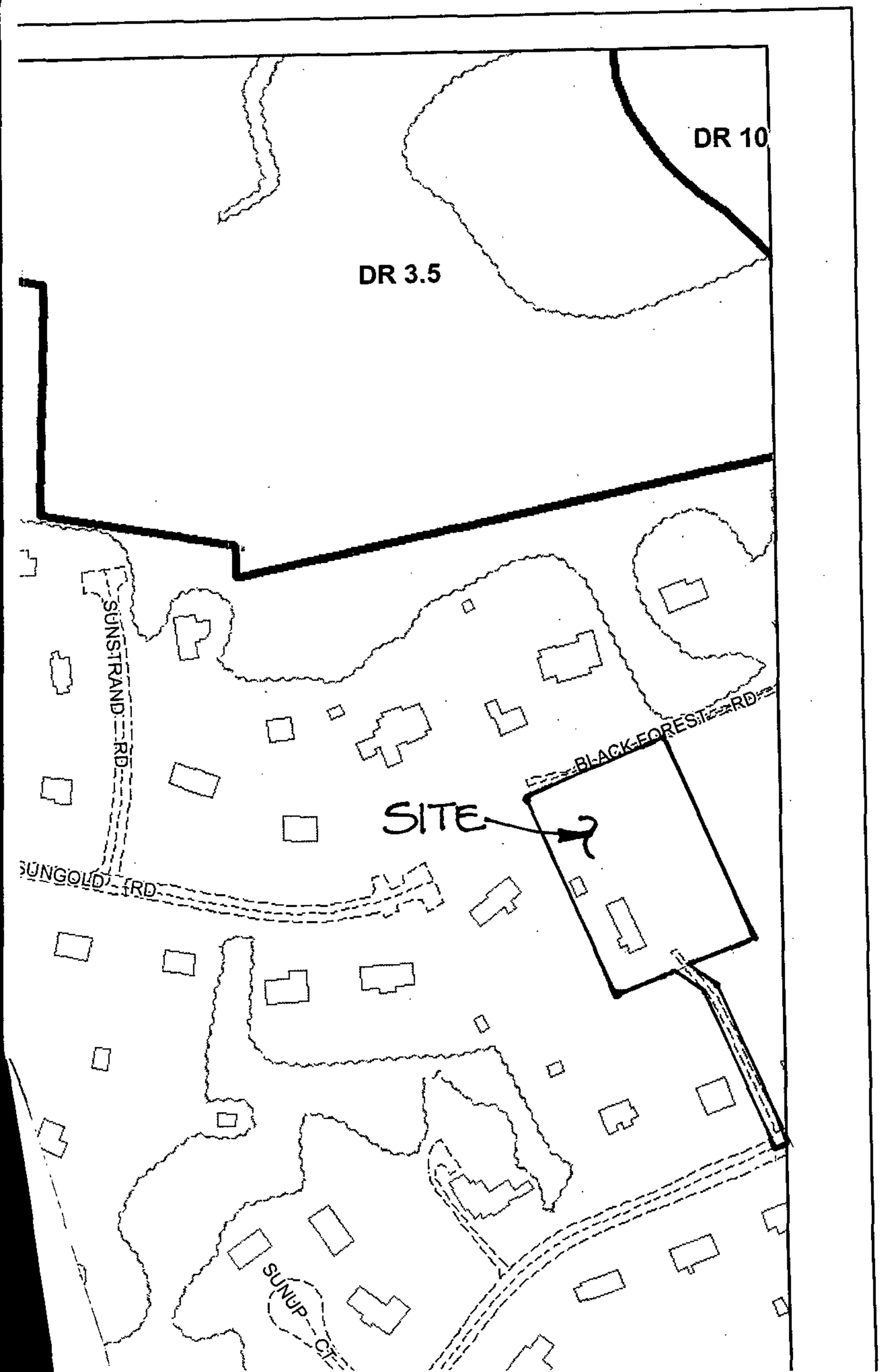
Hearing: Thursday, January 11, 2007 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.


DR 10
DR 3.5
SUNSTRAND RD
SUNGOLD RD
BLACK FOREST RD
SITE
SUNUP CT

21

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

January 3, 2007

Lawrence M. Hammond
Hammond & Hammond LLC
465 Main Street, P.O. Box 569
Reisterstown, MD 21136

Dear Mr. Hammond:

RE: Case Number: 07-211-SPHA, 602A Church Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 8, 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.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
W. Marcus and Cindi Lynn Levinson 602A Church Road Reisterstown 21136

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

State Highway Administration
Driven to Excel

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 11-13-2006

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

RE: Baltimore County
Item No. 7-211-SPHA
602A CHURCH ROAD
LEVINSON PROPERTY
VARIANCE AND
SPECIAL HEARING

Dear Ms. Matthews:

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. 7-211-SPHA.

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,

Michael P. Bailey

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

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

November 16,2006

ATTENTION: Zoning Review Planners

Distribution Meeting Of: November 13, 2006

Item Number(s): 203 through 212 211

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

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: W. Marcus and Cindi Lynn Levinson 07-210-A
07-211-SPHA

DATE: July 10, 2008

BOARD/PANEL: Edward Crizer, Jr.
Lawrence Wescott
Robert Witt

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate an appeal of the following:

1. Petitioner seeks a Special Hearing to allow for a lot area of 0.91 acres in lieu of the required 1.5 acres.

2. Petitioner seeks a Variance in Case No. 07-210-A to allow for individual side yard setbacks of 36 feet on the east side of the property and 39 feet on the west side of the property in lieu of the required 50 feet.

3. Petitioner seeks a Variance in Case No. 07-211-SPHA to allow for individual side yard setbacks of 36 feet on both sides of the property in lieu of the required 50 feet, to construct a residence on an undersized lot.

4. Is the property unique pursuant to the conditions set forth in Cromwell vs. Ward?

5. If the property is unique pursuant to the conditions set forth in Cromwell vs. Ward; will failure to grant the Variance present a practical difficulty or unusual hardship on the property owner?

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The property in question consists of two adjacent lots making a total of 1.8 acres of property. The dwelling located on the first lot was built in 1969 under previous zoning regulation R40. When the dwelling was built, the property was divided into the two separate lots.
- Zoning Regulations had been changed and the property has been zoned (Rural Conservation (R.C. 5) which requires a minimum lot size of 1.5 acres and density of .5, totaling 2 acres, in order to support a single-family dwelling.
- Based on the evidence provided, the Petitioners failed to show that the property fit the uniqueness requirements pursuant to Cromwell v. Ward. The Petitioner also failed to show evidence of a practical hardship.

- The Board unanimously agreed with the Memoranda Summary of People's Counsel that:
  a. The parcel is not a legal lot of record as defined in BCZR 101 and does not qualify for the exception under BCZR 1A04.3B.1b in the R.C. 5 zone.
  b. The Petitioner does not own just a single lot as the R.C. 5 regulation requires, but owns two lots.
  c. Even if the R.C. 5 exception applies, the parcel does not satisfy the variance standards – there was no evidence of uniqueness, and because it has a use in conjunction with the existing dwelling, there is no practical difficulty.
  d. Should the CBA apply the special exception standards instead of variance standards to the exception under the R.C. 5 zone, the Petitioners have failed to provide evidence that the requested relief is "not inconsistent with the spirit and intent of the zoning regulations and the property's zoning regulation" and failed to provide evidence that the produced second dwelling is not "detrimental to … the general welfare of the locality involved" all of which is zoned R.C. 5.
  e. The parcel has never been legal under its prior zoning classifications nor legally created in 1968 in compliance with the applicable subdivision regulations.
- The Board recognizes that the existing house was not legally created but is not going to ask that the dwelling be torn down.
-

DECISION BY BOARD MEMBERS: The property does not fit the conditions of Cromwell vs. Ward for uniqueness or practical difficulty.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to DENY Petitioner's request for Special Hearing and Variances because the property does not meet uniqueness nor practical difficulty requirements as set forth in Cromwell v. Ward.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

Sunny Cannington

Sunny Cannington

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

May 15, 2008

NOTICE OF DELIBERATION

IN THE MATTER OF:

W. MARCUS AND CINDI LYNN LEVINSON - Petitioners
Case No. 07-210-A and Case No. 07-211-A

Having heard this matter on 5/14/08, public deliberation has been scheduled for the following date /time:

DATE AND TIME : THURSDAY, JULY 10, 2008 at 9:30 a.m.

LOCATION : Hearing Room #2, Second Floor (next to Suite 203)
Jefferson Building, 105 W. Chesapeake Avenue

NOTE: Closing briefs are due on Friday, June 13, 2008
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner : Lawrence M. Hammond, Esquire
Appellant /Petitioner : W. Marcus and Cindi Lynn Levinson

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Copy to: 7-3-6

CASE #: 07-210-A

IN THE MATTER OF: W. MARCUS AND CINDI LYNN LEVINSON – Legal Owners /Petitioners *602A Church Road* 4th E; 4th C

VAR – To permit individual side yard on E/s of existing dwelling of 36' ilo required 50'; and to permit individual side yard on W/s of existing dwelling of 39' ilo required 50'.

AND

CASE #: 07-211-A

IN THE MATTER OF: W. MARCUS AND CINDI LYNN LEVINSON – Legal Owners /Petitioners 602A Church Road 4th E; 4th C

SPH – To permit lot having land area of 0.91 acre ilo required 1.5 acres;
VAR – To permit individual side yard on E/s of proposed dwelling of 36' ilo required 50'; and to permit individual side yard on W/s of proposed dwelling of 36' ilo required 50'.

3/15/2007 – D.Z.C.'s Decision in which requested special hearing relief was DENIED; and requested variance relief DENIED as moot.

1/02/2008 - Notice of Assignment sent to following; assigned for hearing on Wednesday, March 12, 2008 at 10 a.m.:

Lawrence M. Hammond, Esquire
W. Marcus and Cindi Lynn Levinson
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM.

3/11/08 – Request for Postponement filed by Lawrence Hammond, Esquire, counsel for Petitioners due to death in his family and necessity to travel to Louisiana for services, etc.
-- Spoke with Ms. Demilio this a.m.; no objection to the granting of this postponement.
-- Notice of Postponement and Reassignment sent to parties; case reassigned to Wednesday, May 14, 2008 at 10:00 a.m.

5/14/08 – Board convened for hearing (Crizer, Wescott, Witt); concluded hearing this date; memos due 6/13/08; public deliberation to be scheduled.

5/15/08 – Notice of Deliberation sent to parties; assigned for Thursday, July 10, 2008 at 9:30 am FYI copy to 7-3-6.

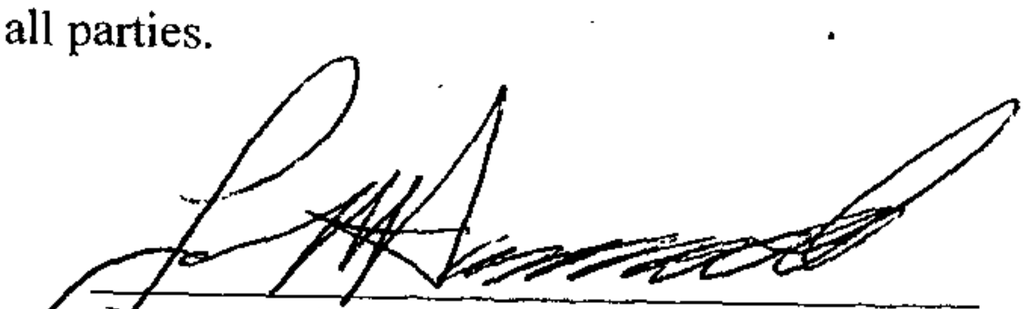
IN THE MATTER OF: **W. MARCUS LEVINSON** **& CINDI LYNN LEVINSON** **Legal Owners/ Petitioners**	*	**COUNTY BOARD**
	*	**OF APPEALS**
	*	**OF BALTIMORE COUNTY**
	*	**Case #: 07-210-A & 07-211-A**

* * * * * * * * * * * * *

REQUEST FOR POSTPONEMENT

The Petitioners, pursuant to Rule 2 (b) and Rule 2 (c) of the Board's Rules of Practice and Procedure moves for a postponement of the hearing of this matter on the ground that Petitioner's counsel is unavailable due to a death in his family and the necessity for counsel to travel to Louisiana in order to attend services.

WHEREFORE, Petitioner's move for a continuance of the hearing of this matter until such a time that is convenient to the Board and all parties.

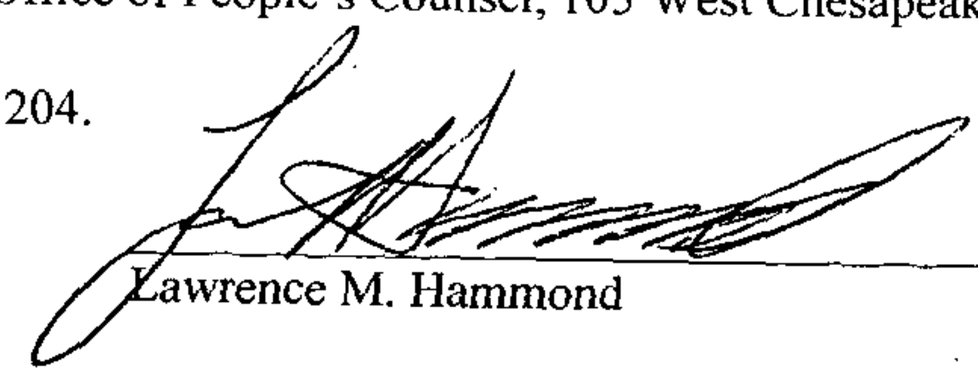


Lawrence M. Hammond
Hammond & Hammond, LLC
465 Main Street, P.O. Box 569
Reisterstown, Maryland 21136
(410) 977-7258
Attorney for Petitioners

MAR 1 1 20

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of March, 2008, a copy of the foregoing Motion for Postponement was hand delivered to the Office of People's Counsel, 105 West Chesapeake Avenue, Suite 204, Towson, Maryland 21204.



Lawrence M. Hammond

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: November 14, 2006

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For November 20, 2006
Item Nos. 07-202, 203, 204, 205, 206, 207, 208, 209, 210, 211, and 212

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-11142006.doc

BALTIMORE COUNTY, MARYLAND

1-11-07
JM

Inter-Office Correspondence

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination JWL

DATE: December 29, 2006

SUBJECT: Zoning Item # 07-211-A SPHA
Address 602 A Church Road
(Levinson Property)

Zoning Advisory Committee Meeting of November 13, 2006

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

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

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

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

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

Additional Comments:

Reviewer: Glenn Shaffer Date: December 6, 2006

S:\Devcoord\1 ZAC-Zoning Petitions\ZAC 2007\ZAC 07-211-A.doc

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

February 20, 2007

LAWRENCE M. HAMMOND
HAMMOND & HAMMOND LLC
PO BOX 569
REISTERSTOWN MD 21136

Re: Petition for Variance, Special Hearing and Variance
Case No. 07-210-A and 07-211-SPHA
Property: 602A Church Road

Dear Mr. Hammond:

Just a note to remind me that I have left the record open in the above-referenced case in anticipation of a legal memorandum from you. If I recall a question arose as to whether the proposed subdivision would create the hardship/practical difficulty, be self-imposed and denied.

As I mentioned this Commission has recognized three exceptions to this general rule: existing conditions, government direction, and no economic use.

Please let me know your thoughts at your convenience.

Very truly yours,

John V. Murphy

John V. Murphy
Deputy Zoning Commissioner

JVM:pz

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

May 8, 2007

Lawrence M. Hammond
Hammond & Hammond, L.L.C.
465 Main Street, PO Box 569
Reisterstown, MD 21136

Dear Mr. Hammond:

RE: Case: 07-211-SPHA, 602A Church Road

Please be advised that your appeal of the above-referenced case was received in this office on April 16, 2007. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:amf

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
W. Marcus Levinson Cindi Lyn Levinson 602A Church Road Reisterstown 21136

ARTICLE 1A—RURAL AND RURAL-SUBURBAN LOW-INTENSITY ZONES
[Bill No. 100, 1970.]

Section 1A00—R.D.P. ZONES (RURAL: DEFERRED-PLANNING). [Bill No. 100, 1970.]

1A00.1—General Provisions. [Bill No. 100, 1970.]

1.[1] Purpose. The R.D.P. zoning classification is established, pursuant to the legislative findings set forth above,[2] in order to:

a. Prevent untimely urban development of relatively open rural land; and

b. Foster conditions favorable to agriculture and other low-intensity uses appropriate in rural areas, considering both the magnitude of total land acreage needed for such uses and the current prospective needs for developable urban land.
[Bill No. 100, 1970.]

2. Intent as to application of R.D.P. zoning classification to property or removal therefrom. It is intended:

a. That rural land shall be classified within R.D.P. zones unless the Capital Budget and Five-Year Capital Program of Baltimore County and duly adopted official Baltimore County master plans, including the "county plan" required under Article 43, Section 387C of the Annotated Code of Maryland, 1957 (1965 Replacement Volume) as amended, all consistently indicate that such land is to be serviced by public sewerage and water-supply systems and, in the case of those said documents which determine the timing of construction, also consistently provide for the adequacy and availability of service to said land by such systems within a period of six years after the time of consideration with respect to zoning classification; provided further, however, that such nonserviced land as is specifically herein described (in this Subparagraph 3[3] or other provisions in these regulations) as being appropriately otherwise classified shall also be excepted from the category of land which shall be classified as R.D.P.;

b. That land classified as R.D.P. shall not be reclassified (rezoned) until such time as the documents hereinabove noted have been officially changed or replaced in kind and thereby then indicate possible appropriateness of reclassification under the criteria hereinbefore stated;

1. *The line designating this subparagraph and those immediately following as parts of a Paragraph "A" was deleted from Bill No. 100, 1970 by amendment after introduction.*
2. *Findings deleted from Bill No. 100, 1970 by amendment after introduction.*
3. *Now Subparagraph 2, as a result of amendment of Bill No. 100, 1970 after introduction.*

Exhibit A

R. 40 ZONE

Section 202—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

202.1—Lot Area and Width—Each principal building hereafter erected shall be located on a lot having an area of not less than 40,000 square feet and a width at the front building line of not less than 150 feet, except that for two or more lots in the same ownership, and in the same tract, a minimum lot area of 30,000 square feet is permitted if the average of all the lot sizes in the same ownership and in the same tract equals 40,000 square feet or more. A wedge shaped lot at the end of a cul-de-sac street may have a width at the front building line of not less than 100 feet (see Section 304).

202.1.1—In a cluster subdivision a minimum lot area of 25,000 square feet is permitted, provided that the average area of all lots in the subdivision equals at least 30,000 square feet and that the total area in residential lots plus the area of the local open space tract(s) equals or exceeds the number of lots multiplied by 40,000 square feet. In such subdivision not more than 75 per cent of the lots may be less than 30,000 square feet in area and the minimum permitted width at the front building line is 100 feet.

202.2—Front Yard—For dwellings, the front building line shall be not less than 50 feet from the front lot line and not less than 75 feet from the center line of the street; for other principal buildings—70 feet from the front lot line and not less than 95 feet from the center line of the street.

202.3—Side Yards—For dwellings, 20 feet wide for one side yard and not less than 50 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 50 feet from the side lot line and not less than 75 feet from the center line of the street; for other principal buildings—40 feet wide, except that for a corner lot the building line along the side street shall be not less than 65 feet from the side lot line and not less than 90 feet from the center line of the street.

202.4—Rear Yard—50 feet deep.

3-15-07

Exhibit B

APPEAL

Petition for Special Hearing and Variance
602A Church Road
Southwest side of Church Road, 340 feet southeast of Blackforest Road
4th Election District – 4th Councilmanic District
Legal Owner(s): W. Marcus and Cindi Lynn Levinson

Case No.: 07-211-SPHA

Petition for Special Hearing and Variance (November 8, 2006)

Zoning Description of Property

Notice of Zoning Hearing (November 20, 2006)

Certification of Publication (December 28, 2006)

Certificate of Posting (December 7, 2006) by Sandra Golf

Entry of Appearance by People's Counsel (November 15, 2006)

Petitioner(s) Sign-In Sheet – None

Protestant(s) Sign-In Sheet – None

Citizen(s) Sign-In Sheet – None

Zoning Advisory Committee Comments

Petitioners' Exhibit – None

Protestants' Exhibits: None

Miscellaneous (Not Marked as Exhibit) None

Deputy Zoning Commissioner's Order (DENIED in accordance w/order March 15, 2007)

Notice of Appeal received on April 16, 2007 from Lawrence M. Hammond

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Lawrence M. Hammond
W. Marcus and Cindi Lynn Levinson

date sent May 8, 2007, amf

RE: PETITION FOR SPECIAL HEARING AND VARIANCE 602A Church Road (P2); SW/S Church Road, 340' SE Blackforest Road 4th Election & 4th Councilmanic Districts Legal Owners: W. Marcus & Cindi Levinson Petitioner(s)	* * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 07-211-SPHA

* * * * * * * * * * * * *

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

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

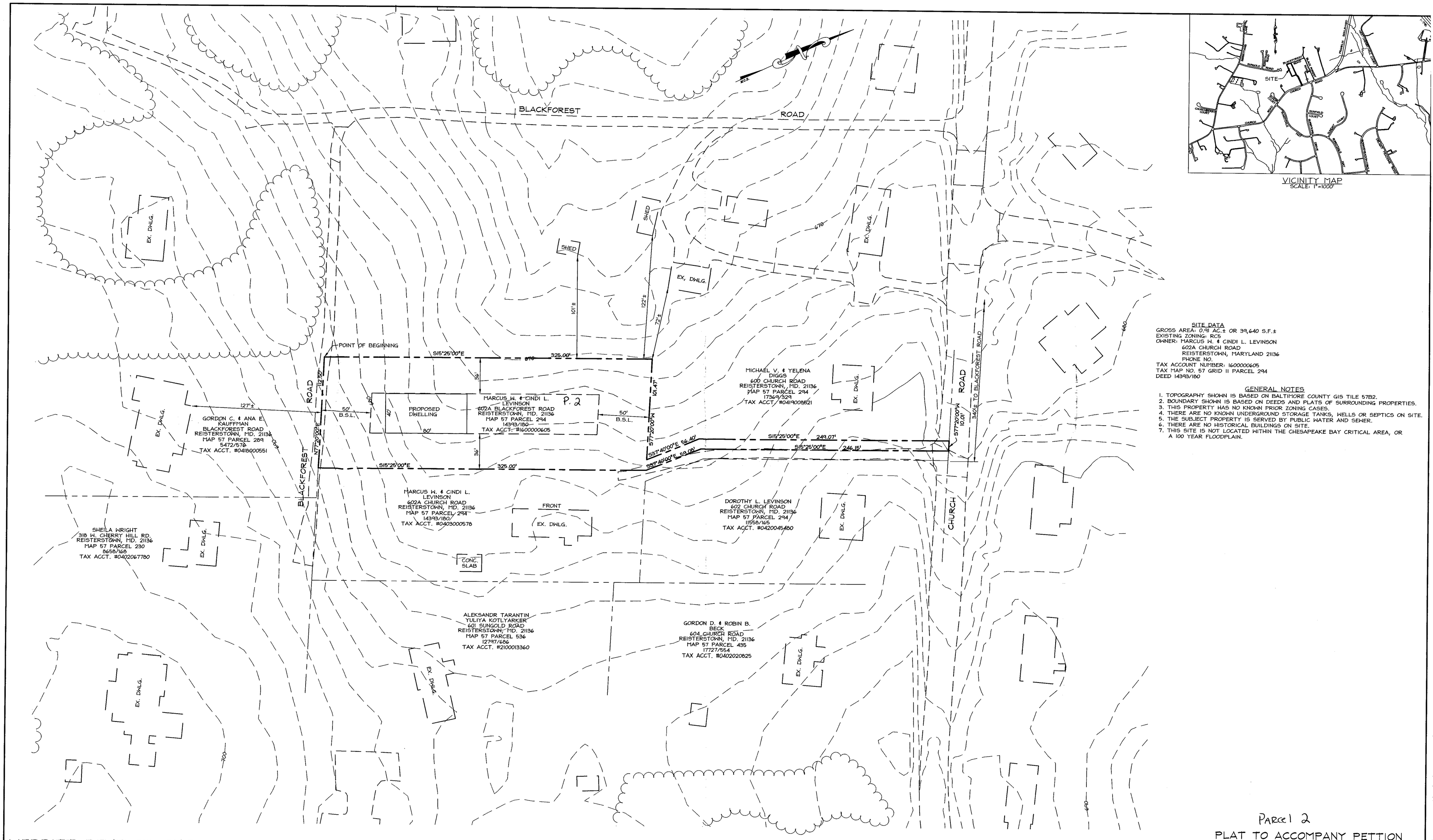
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of November, 2006, a copy of the foregoing Entry of Appearance was mailed to, Lawrence M. Hammond, Esquire, P.O. Box 569, Reisterstown, MD 21136, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED
NOV 15 2006
Per.....



VICINITY MAP
SCALE: 1"=1000'

SITE DATA

GROSS AREA: 0.91 AC.± OR 39,640 S.F.±
EXISTING ZONING: RC5
OWNER: MARCUS W. & CINDI L. LEVINSON
602A CHURCH ROAD
REISTERSTOWN, MARYLAND 21136
PHONE NO.
TAX ACCOUNT NUMBER: 1600000605
TAX MAP NO. 57 GRID 11 PARCEL 294
DEED 14393/180

GENERAL NOTES

1. TOPOGRAPHY SHOWN IS BASED ON BALTIMORE COUNTY GIS TILE 57B2.
2. BOUNDARY SHOWN IS BASED ON DEEDS AND PLATS OF SURROUNDING PROPERTIES.
3. THIS PROPERTY HAS NO KNOWN PRIOR ZONING CASES.
4. THERE ARE NO KNOWN UNDERGROUND STORAGE TANKS, WELLS OR SEPTICS ON SITE.
5. THE SUBJECT PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
6. THERE ARE NO HISTORICAL BUILDINGS ON SITE.
7. THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA, OR A 100 YEAR FLOODPLAIN.

MERRITT DEVELOPMENT CONSULTANTS, INC.
9831 MAGLEDT ROAD
BALTIMORE , MARYLAND
PHONE: 410-663-5525 FAX:410-663-4315

VARIANCE REQUEST:
MINIMUM SIDE OF INDIVIDUAL SIDE YARD WIDTH OF 36' (EAST SIDE OF PROPERTY) AND 36' (WEST SIDE OF PROPERTY IN LIEU OF THE REQUIRED MINIMUM 50' SHOWN IN THE BALTIMORE COUNTY ZONING REGULATIONS MANUAL IN SECTION 1A04.3.2.b.

RELIEF REQUESTED:
APPROVAL OF A RESIDENTIAL LOT IN A RC-5 ZONE HAVING A LAND AREA OF 0.91 (39,640 SQUARE FEET, MORE OR LESS) OF AN ACRE, MORE OR LESS, IN LIEU OF THE REQUIRED 1.5 ACRES (65,340.00 SQUARE FEET).

PARCEL 2

PLAT TO ACCOMPANY PETTION FOR ZONING VARIANCE AND SPECIAL HEARING

602A CHURCH ROAD

DISTRICT 4C4 BALTIMORE COUNTY, MD
SCALE: 1"=40' OCTOBER 24, 2006

06107