P & M ENTERPRISES, INC.
2623 MARINE AVE., E/s of Marine Ave, 346' N of c/l Sparrows Pt. RD
Case No.: 07-275-A 15th E; 7th C

~~3/13/2008 @ 10 a.m.~~ PP'd
5/01/08 @ 10 a.m.
6/17/08 @ 9:00 am Delib.
Held with 05 files

Issued
7/24/08

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supplemental

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EV

07-275-A

1/24/08

IN THE MATTER OF THE THE APPLICATION OF F & M ENTERPRISES, INC. – LEGAL OWNER FOR A VARIANCE ON PROPERTY SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE E/S MARINE AVENUE 346' N OF C/L OF SPARROWS POINT ROAD (2623 MARINE AVENUE) 7TH ELECTION DISTRICT 15TH COUNCILMANIC DISTRICT	* BEFORE THE * COUNTY BOARD OF APPEALS * OF * BALTIMORE COUNTY * CASE NO. 07-275-A *

* * * * * * * * *

OPINION

This matter comes to the Board on appeal of the final decision of the Zoning Commissioner in which the Zoning Commissioner granted a Petition for Variance seeking relief from §1B02.3.C.1 of the Baltimore County Zoning Regulations (BCZR). Petitioner seeks to consolidate five (5) twenty (20) foot lots and move the lot line of one of the lots to create two (2) fifty (50) foot lots. A hearing was held before the Board on May 1, 2008. The Petitioner, F & M Enterprises, Inc. was represented by Arnold Jablon, Esquire and Venable, LLP. The Protestant, Thomas Nelson, appeared at the hearing pro se. However, subsequent to the hearing Fred M. Lauer, Esquire, entered his appearance on behalf of Mr. Nelson and filed a closing brief in support of the Protestant's position. Public Deliberation was held on June 17, 2008.

Background

This case has a rather long history before the Zoning Commissioner and the Board. The history has no relevance to the decision made by this Board today; therefore, it will not be detailed in this opinion. However, for any interested parties, the history is outlined in the decision of Zoning Commissioner Wiseman on March 6, 2007. The subject property consists of a net area of 12,500 sf, or approximately 0.5334 acres more or less. It is vacant. As shown on

the site plan, the lots are identified as lots 395 through 399. The property fronts on Marine Avenue, between Steel Avenue and Sparrows Point Road. It is split zoned DR5.5 (0.253 acres), RO (0.0.31 acres) and BL-A.S. (0.0003 acres). The BL-A.S. and RO portions are located toward the rear of the property. The subject lots are in the subdivision known as Sparrows Point Manor, which was recorded among the land records of Baltimore County in 1921. The purpose of the variance request is to allow the owner to have two (2) building lots on the subject property, each having a lot width of fifty (50) feet in lieu of the required fifty-five (55) feet as required by the zoning classification.

In support of its case, Petitioner presented Mr. Paul Lee, a registered engineer with Century Engineering Company, who was accepted by the Board as an expert in land use and zoning in Baltimore County. Mr. Lee testified with respect to the location of the property and its history as well as the history of the Sparrows Point Shipyards in general. He stated that the Petitioner proposes two (2) single-family dwellings on the lots in question. He testified that each of the lots comprising the subject property was rectangular in shape and each of the lots is twenty (20) feet wide. The lots comprising Sparrows Point Manor are mostly twenty (20) feet to twenty-five (25) feet wide with homes built on an assortment of combination of lots, many built on lots combined to equal forty feet some lots combined to equal fifty (50) or sixty (60) or eighty (80) feet. Mr. Lee testified that Mr. Nelson, the Protestant herein, lives adjacent to the property. His home is located on lots 391 through 394, a total of eighty (80) feet wide. Mr. Nelson also owns the house adjacent to his on lots 388 through 390, a total of sixty (60) feet wide. Mr. Lee stated that across the street, the property at 2625 Marine Avenue exists on two lots a total of forty (40) feet wide. Mr. Lee stated that down Marine Avenue there are combinations of lots existing on both sides and indeed throughout the subdivision. He contended that more dwellings were on

lots of forty (40) and fifty (50) feet combinations than exist in any other combination. The obvious goal of increasing the number of building lots available was to provide for the ever-growing number of employees at the shipyard. In Mr. Lee's opinion what is unique is not the twenty (20) foot lot width but the varying combinations of lots, all undersized under current zoning regulations, used to construct homes. While there are exceptions, most dwellings are on lots less than fifty-five (55) feet wide as required by the current zoning regulations. In his opinion, the neighborhood defined for zoning purposes should not be limited to Sparrows Point Manor but should include the subdivisions surrounding the shipyards and including the shipyards. It was the ever-increasing need for housing to satisfy the number of employees needed by the shipyard that was the basis for the establishment of Sparrows Point Manor and the resulting twenty foot lots which were created in the subdivision.

It was Mr. Lee's opinion that to construct the house on the five (5) combined lots would be a practical difficulty for the owner. He felt that any such house would have to be larger than those presently existing in the area and would inherently be out of character. In his opinion no one would buy the house.

Mr. Nelson, the Protestant, testified that he had lived in Sparrows Point Manor on Marine Avenue for approximately 64 years except for the 3 years he was in the military. He contended that there were a number of houses built on lots larger than sixty (60) feet, some as large as one hundred and thirty-five (135) feet. It was Mr. Nelson's position that the zoning regulations should be adhered to and that no variances should be granted. His evaluation of the neighborhood was that it was continuing to improve with larger houses being constructed and the progression of the homes moving up in value as older homes were destroyed and rebuilt. It was Mr. Nelson's opinion that F & M has purchased a number of properties in the Sparrows Point

Manor and is attempting to build the largest number of homes on the smallest number of lots in order to make the most profit that it can. A list of the properties owned by F & M Enterprises in the Sparrows Point Manor area are listed on the Maryland Department of Assessments and Taxation data search. F & M Enterprises owned a total of thirty-six (36) properties.

Issue

Whether or not the proposed variances for lot widths complies with the provisions of §307.1 of the BCZR.

Decision

Petitioner contends that the planned and resultant density of residential development in the area rendered the lots in question unique. He stated that the uniqueness of the planned residential growth changed when the zoning came to Baltimore County and with the application of the varying zoning classifications, particularly in the tri-partite zones to the subject lots, it transformed these lots into the "uniqueness" intended by *Cromwell v Ward*, 102 MD App. 691 (1995). The Zoning classifications B.L. 5.5, BL-AS, and RO contribute to the subject property's zoning uniqueness in the opinion of the Petitioner. The subject property has three zones, and using the neighborhood, either that which includes Sparrows Point Manor specifically or which incorporates the shipyards and its surrounding subdivisions, Petitioner contends that the commercial and industrial uses immediately adjacent to Sparrows Point Road, Manor Avenue, Marine Avenue, and Edgemere Avenue all of which comprise the road network for Sparrows Point Manor confirm the uniqueness of the subject property. The Petitioner contends that the BL-AS use permitted in the small portion of the lots in question was significant. In Mr. Lee's opinion, because of the BL-AS and RO designations, the subject property would not support one very large house on the combined lots.

In support of the Protestant's position, Mr. Lauer argues that the property in question is no different than any other combination of lots in the area. He contended that the Petitioner's argument that the existence of three (3) zoning classifications on the property somehow creates a uniqueness is without merit. First the adjoining residential properties on Marine Avenue and Sparrows Point Road have a similar divergence of zoning classifications. Thereby, 2623 Marine Avenue is no different than other properties in the area. Secondly, Protestant contends that the Petitioners failed to demonstrate how the existence of three zoning classifications has a negative impact on the development. The rear portion of Petitioner's property as BL-AS and RO zonings does not prohibit the Petitioner from building a dwelling unit on the property. Protestant points out that the combination of zoning classifications did not prohibit the property owners at 2602 Sparrows Point Road from building a single dwelling on their one hundred and fifty foot lot property. Protestant claims that the property is not unique within the meaning of the decision of *Cromwell vs. Ward*, MD App *supra*.

The Board has reviewed the decision of the Court of Special Appeals in *Cromwell.* The Court set a clear two step process for deciding variances in the *Cromwell* case. The Court stated:

> The first step requires a finding that the property whereon structures are to be placed...is in and of itself unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionally upon that property. Unless there is a finding that the property is unique, unusual or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship.

The Court went on to state its interpretation of the "uniqueness" factor by stating:

> In the zoning context the "unique" aspect of the variance requirement does not refer to the extent of the improvements upon the property, or upon the neighboring property. The "uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, sub-service condition, environmental factors, historical significance, access

> or non-access to navigatable waters, practical restrictions imposed by a budding property (such as obstructions), or other similar restrictions...

This Board finds that the property in question is not unique within the meaning of *Cromwell v Ward*. The properties are five (5) twenty (20) foot wide lots approximately one hundred twenty-five (125) feet long, within the Sparrows Point Manor subdivision. All other lots within the subdivision are twenty (20) foot by one hundred twenty (120) foot lots similar to those owned by the Petitioner (see Petitioner Ex 7). The fact that there may be three (3) different types of zoning on the property does not make it any different from some of the other properties where there are two (2) or three (3) types of zoning. In any event the three (3) types of zoning on the property are so small that they are insignificant with respect to the construction of a structure on the property.

Having found that the property is not unique, the Board does not have to respond to the question of practical difficulty. However, the Board feels that the position taken by the Petitioners, that a larger house on the property would not be viable, is not a factor to be considered, even if we were to consider practical difficulty. Photographs as submitted by the Protestant show that at least one other house in the area is a new larger home. It appears to be occupied and appears to support the Protestant's position that the neighborhood is beginning to increase the size and value of the homes. Therefore, based upon the above facts, the Board will deny the Variances.

ORDER

THEREFORE, IT IS, this 24th day of July, 2008, by the Board of Appeals of Baltimore County

ORDERED that the Petition for Variance seeking relief from §1B02.3.C.1 of the Baltimore County Zoning Regulations (BCZR) to permit two (2) fifty (50) foot lots in lieu of the required fifty-five (55) feet is hereby **DENIED.**

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence Wescott, Panel Chairman

Maureen Murphy

Lawrence Stahl

7/24/08

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
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July 24, 2008

Fred M. Lauer Esquire
120 E. Baltimore Street
Suite 1808
Baltimore, MD 21202

RE: *In the Matter of: F & M Enterprises, Inc.*
Case No. 07-275-A

Dear Mr. Lauer:

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

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 of Procedure*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** 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: Arnold Jablon, Esquire
F & M Enterprises
Paul Lee /Civil Engineer
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

5/30/08

IN THE MATTER OF:	*	**BEFORE THE**
PETITION FOR VARIANCE	*	**COUNTY BOARD**
2623 MARINE AVENUE	*	**OF APPEALS OF**
15TH ELECTION DISTRICT	*	**BALTIMORE COUNTY**
7TH COUNCILMANIC DISTRICT	*	**CASE NO. 07-275-A**

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

CLOSING BRIEF BY APPELLANT

Appellant, Thomas Nelson, adjoining property owner and protestant before the Zoning Commissioner of Baltimore County, through his attorney, Fred M. Lauer, hereby files this Closing Brief in support of Appellant's request to the County Board of Appeals of Baltimore County (hereinafter CBA) to deny this application for a variance creating two lots on the subject property and in support thereof states:

INTRODUCTION

This is the third time that the owners of 2623 Marine Avenue have tried to convince the Zoning Commissioner or the CBA that they meet the standards for a variance to permit the use of this 100 foot wide property to be used for two dwellings units with 50 foot widths rather than meeting the required 55 foot width in the D.R.5.5. Zoning Classification. Undeterred by the opinions of Zoning Commissioner in 1974 and by Deputy Zoning Commissioner in 2005, Petitioner finally convinced Zoning Commissioner Wiseman to grant the variances necessary to allow for two lots of 50 feet in width rather than the 55 foot required in this zoning classification.

Appellant appeared at the previous hearings on this matter and appeared (without counsel) at the May 1, 2008 hearing of the CBA. Appellant contends that Petitioner does not meet the legal standards for granting a variance as specified in Section 307 of the Baltimore County Zoning Regulations (hereinafter BCZR) Appellant further contends that Petitioner does not meet the well followed two step requirements spelled out by the Court of Special Appeals in **Cromwell v. Ward**, 102 Md.App. 691 (1995) Finally, Appellant contends that the granting of this variance would be precedent setting and would in fact change the BCZR through administrative policy rather than legislative directive.

THE LEGAL STANDARD

A. BCZR – Section 307

BCZR, as do other municipalities in Maryland, spell out the specific standards for granting a variance. The CBA is aware of Section 307 of the BCZR which spells out those standards to be followed by the CBA. This section allows the CBA to grant variances "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 ... would result in practical difficulty or unreasonable hardship". Further, this section specifically states that "No increase in the 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."

B. Judicial Doctrine

The burden of showing facts to justify the granting of a variance rests with the person requesting such variance. **Easter v. Mayor of Baltimore**, 195 Md. 395, 400 (1950) The applicant for the variance has the burden of overcoming the presumption that the proposed use is unsuitable and must fully satisfy the dictates

of the statue which authorizes the variance. **North v. St. Mary's County**, 99 Md. App. 502 (1994)

The Court of Appeals has recognized that the purpose of zoning restrictions are "to prevent exceptions as far as possible," so that the specific need for the variance "must be substantial and urgent and not merely for the convenience of the applicant [.]" **Belvoir Farms Homeowners Ass'n Inc. v. North**, 355 Md. 259, 276 (1999). The **Belvoir Farms** Court held that a variance is warranted if the "applicable zoning restriction when applied to the property in the setting is so unreasonable as to constitute and arbitrary and capricious interference with the basic right of private ownership" Id. at 276

In deed, the Maryland Courts have been reluctant to approve a variance. As stated in **Cromwell**:

> One indication of the general rule that variances are rarely granted is that, in our review of the reported Maryland cases since the creation of the state zoning enabling act in 1927, we found only five reported Maryland cases in which the grant of a variance has been affirmed or the denial of a variance has been reversed. **Cromwell** at 711 (emphasis added)

Judge Cathell in the **Cromwell** decision extensively reviewed appellate decisions regarding variances. The Court set up a clear two step process for deciding variances, 102 Md. App, at 694-695, which it applied to "resolve " the variance there issue at bar, 102 Md. App. at 726. The two-step review process is, 102 Md. App. at 694 ff:

> The first step requires a finding that the property whereon structures are to be placed...is-in and of itself unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionally upon that property. Unless there is a finding that the property is unique, unusual or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that

> first step results in a supportable finding of uniqueness or unusualness, then a second step is taken in the process, i.e., a determination of whether practical difficulty and/or [footnote omitted] unreasonable hardship, resulting from the disproportionate impact of the ordinance caused by the property's uniqueness exists.

The **Cromwell** yardstick remains in favor and the first step was built upon what the Court of Appeals fashioned 40 years earlier in **Marino v. City of Baltimore**, 215 Md. 206, 219 (1957), where is was written:

> "The plight of the [Applicant] must be due to unique circumstances and not to general conditions in the neighborhood."

As stated above the second step in the variance process requires the applicant to demonstrate that a practical difficulty and/or unreasonable hardship exists resulting from the disproportionate impact from the applicable zoning restriction. To determine whether a hardship exists, the Court of Appeals in **Park Shopping Center, Inc. v. Lexington Park Theater Co**., 216 Md. 276-277, (1958) opined:

> "...The criterion for determining unnecessary hardship is whether the ... restriction when applied to the property in the setting of its environment is so unreasonable as to constitute an arbitrary and capricious interference with the basic right of private ownership.".

There must be a proven substantial and urgent need demonstrated by the applicant for a variance based upon the practical difficulty and/or unreasonable hardship peculiar to the situation of the applicant for the permit. As stated in **Carney v. City of Baltimore**, 210 Md. 130, 137 (1952), to allow a liberal construction of variances would destroy the zoning regulations:

> "...The need sufficient to justify an exception must be substantial and urgent and not merely for the convenience of the applicant, inasmuch as the aim of the ordinance is to prevent exceptions as far as possible, and a liberal construction allowing exceptions for reasons that are not substantial and urgent would have the tendency to cause discrimination and eventually destroy the usefulness of the ordinance.".

C. Summary

The BCZR allows the CBA to grant a variance only when special circumstances or conditions exist which are peculiar to the land under a showing of practical difficulty or unreasonable hardship. The case law regarding variances requires that the property be "unique" as opposed to other properties in the area and that there be a showing of an urgent and substantial need and a disproportional impact upon the applicant. For the reasons provided below, Appellant feels that the applicant has failed to meet the burden of proof required by law in this request for a variance.

Appellant contends that there has been no showing of "uniqueness" or special circumstances or conditions peculiar to 2623 Marine Avenue which merits the granting of a variance as explained below. Further, there are no practical difficulties or unnecessary hardships which are a result of strict application of the BCZR.

ARGUMENT

Petitioner argues, and Zoning Commissioner Wiseman agreed, that they meet the "uniqueness" standard required in **Cromwell** because:

1. There are three different type of zoning classifications on the property at 2623 Marine Avenue.
2. The lots are "unique" because they were created in the 1920"s prior to zoning in Baltimore County.

Petitioner further argues that a practical difficulty and/or unnecessary hardship is proven because:

1. The density of the home development in the area was created because of the shipyards and need for employment and housing in the area.

2. The building of one house on this lot does not make it economically viable.

By no stretch of the imagination is 2623 Marine Avenue any different than any of the other combination of lots in this area. As seen on Petitioner's exhibit, of the hundreds of lots in the subdivision known as "Sparrows Point Manor" only a few are 50 feet or less in width. Most of the lots less than 40 feet in width are vacant. As shown on that exhibit, most of these lots have homes that were constructed prior to 1955. One glance at this exhibits show that over 80 % of the properties do comply with the 55 foot width requirements of this D.R. 5.5 Zoning Classification.

Petitioner's argument that the existence of three zoning classifications on this property somehow creates a "uniqueness" is also without merit. First, adjoining residential properties on Marine Avenue and Sparrows Point Road have a similar divergence of zoning classifications. Thereby, 2623 is no different than other properties in the area.

Second and more importantly, Petitioner has failed to demonstrate how the existence of three zoning classifications has a negative impact on this development. The very small rear portion of Petitioner's property that has the BL-AS and RO Zoning does not prohibit Petitioner from building a dwelling unit on this property. This combination of zoning classifications did not prohibit the property owners at 2602 Sparrows Point Road from building a single dwelling on their 150 foot wide property. Petitioner failed to show that 2623 Marine Avenue is "unique" in that there are other dwellings in the area with the same zoning classification and also failed to show how this combination of zoning classifications effects in any way the ability to develop this property.

Petitioner also claims that the property is "unique" because these lots were created in the 1920"s before Baltimore County had zoning regulations. The County Executive and the County Council decided to designate this area as D.R.

5.5. It was determined by the legislative body that this zoning classification was appropriate for the area. Restraints provided by area restrictions are common in regulated areas in order to "secure quiet residential sections, to afford adequate light, air, sunshine, to promote sanitation, to reduce the hazards of fire, " and " for other common residential concerns," **Carney v. City of Baltimore** , 201 Md. 130,134 (1952) Maintenance of the "integrity of the general scheme" is critical because "one departure serves as justification for another," **Easter v. M&CC of Baltimore** , 195 Md. 395,401 (1950).

There were many lots combined and houses constructed here and elsewhere in Baltimore County before the County had zoning regulations. If that is the standard by which a variance should be granted, then over half of the properties in Baltimore County would be able to be granted a variance of any size for any type of area or use variance. The fact that this property and others in the area were created before zoning regulations were implemented in Baltimore County is of significance if one were to have an argument for a non-conforming use or a non-complying structure. This is not a valid argument for the granting of a variance.

Similarly, the argument that the density of these lots was created because of the shipyards and the need for small houses for employment for the workers again misses the point of the legal requirements for practical difficulty or unnecessary hardship. While arguably that may have been the intention of those who developed this subdivision, the relevancy to the existing zoning regulations is not apparent. Petitioner does not contend that these houses are being built for employment of shipyard workers. Nor does Petitioner demonstrate a substantial and urgent need as required by the case law regarding variances.

Finally, Petitioner argues that it is not now economically viable to build a single house on this lot. Petitioner says that it must be developed into two lots in order for Petitioner to be able to develop the property. It was testified that this property has been in Petitioner's family for three generations. When this property was purchased by Petitioner's family the zoning restrictions now in existence were

not in place. Petitioner has had ample opportunity before the zoning regulations for Baltimore County were passed in 1955 to build two properties. Petitioner chose not to build two houses, but to set on the property and then seek a variance on three occasions from the zoning regulations.

Petitioner and his family have owned the property for over 40 years. Petitioner has always been able as a matter of right to build a single dwelling unit on these lots. Others in the area have complied with the D.R. 5.5. Zoning Regulations, without the need for a variance. **It is not impossible for Petitioner to develop this property; it is just less economically profitable.** Appellant has first hand knowledge of the following properties that have been developed on lots of 55 feet or more in width since 1975 - 2601,2611, 2615, 2617, 2618, and 2627 Marine Avenue// 2558, 2615, 2626 Snyder Avenue// 2600 Manor Avenue// 2625, 2629 Edgemere Avenue.

GRANTING OF VARIANCE IS PRECEDENT SETTING

If the CBA chooses to grant this request for a variance, it will be precedent setting not only in this area, but in all of Baltimore County. One would ask the CBA how it could deny the granting of a variance for the other two lots of 50 feet in this subdivision (one of which is owned by applicant)? Or, what is wrong with a lot width of 40 feet if the property is set back far enough and meets all the other requirements? In Baltimore City there are plenty of houses that are less than 20 feet in width, why not allow such here?

It is a slippery slope once a variance is granted. That is why the law does not favor such exceptions to the zoning regulations. The CBA should not begin this slippery slope leading to many more variance applications and the derogation of the zoning regulations for Baltimore County.

The legislative body determined that the D.R.5.5. zoning classification was appropriate for this area. It also determined that the minimum width of these

properties for development would be 55 feet. If the CBA disagrees with this designation and classification, it should let such be known to the legislative body. It is the legislative body's role and purpose to change zoning classification and regulations, not the administrative agency's role and purpose.

CONCLUSION

For the reasons provided herein, Appellant requests the County Board of Appeals of Baltimore County to deny Petitioner's request for a variance.

Respectfully submitted,

Fred M. Lauer
120 E. Baltimore Street
Suite 1808
Baltimore, Maryland 21202
(410) 547-8356
Attorney for Appellant:
Thomas Nelson

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of Appellant's Closing Brief was sent first class mail postage pre-paid on this the 30th day of May 2008 to Mr. Arnold Jablon, Venable, Baetjer & Howard, LLP, 210 Allegheny Avenue, Towson, MD 21204, attorney for Petitioner, and to Mr. Peter Max Zimmerman, People's Counsel, The Jefferson Building, Suite 204, 102 W. Chesapeake Avenue, Towson, MD 21204.

Fred M. Lauer

5/29/08

IN MATTER OF:	*	BEFORE THE COUNTY
F & M Enterprises, Inc.		
Legal Owner	*	BOARD OF APPEALS
E/S of Marine Ave, 346' N c/line		
Sparrows Point Rod	*	
(2623 Marine Ave.)		OF BALTIMORE COUNTY
	*	
	*	Case No.: 07-275A
7th Councilmanic District	*	
15th Election District		

* * * * * * * * *

PETITIONERS' POST-HEARING MEMORANDUM

Petitioner F & M Enterprises, Inc., by Arnold Jablon with Venable, LLP, its attorney, hereby submits this Hearing Memorandum for consideration by the County Board of Appeals.

INTRODUCTION

In the *de novo* hearing before the Board of Appeals, as described below, Petitioner presented strong and substantial evidence for the Board of Appeals to conclude that sufficient evidence exists to approve two variances of 50' in lieu of the required 55' lot width in order to create two (2) building lots on its property, pursuant to §1B02.3.C.1, of the Baltimore County Zoning Regulations (BCZR).

FACTUAL BACKGROUND

Pogo once said that he met the enemy, and the enemy was "us". The facts are not complicated. We have complicated them. The subject property is comprised of five (5) twenty (20) foot wide lots rectangular in shape located on the east side of Marine Avenue off of Sparrows Point Road. The subject property consists of a net area of 12,500 sf, or approximately 1/2 an acre. It is and has been for over 30 years vacant. ***See Petitioner's exhibit*** 9, where the site plan submitted in that matter showed two houses on the instant property. The five lots, identified as lots 395, 396, 397, 398 and 399, as shown on the site plan submitted and accepted as ***Petitioner's Exhibit 1,*** are each contiguous to each

other. These lots front on Marine Ave, and are between Steel Ave. and Sparrows Point Road, as more particularly shown on the location map on ***Petitioner's exhibit 1.*** These lots, hereinafter referred to as the "property", are split zoned—DR 5.5 (0.253 acres), RO (.031 acres) and BL-AS (.0003 acre). The property is identified on a plat of Sparrows Point Manor recorded in the Land Records of Baltimore County in or about April of 1921. See ***Petitioners' Exhibit 2, the record plat.*** The Petitioner proposes to construct two single family dwellings on the property. Each would have a lot width of 50' in lieu of the required 55', as required in the DR 5.5 zone pursuant to §1B02.3.C.1, BCZR. The lot widths are shown on the site plan, ***Petitioner's exhibit 1.*** In 1921, there were no zoning regulations much less lot width requirements in Baltimore County. There was no zoning in place at the time Sparrows Point Manor was recorded.

In or about 1940, Mr. and Mrs. Michael Narutowicz purchased the property. ***Petitioner's exhibit 7.*** In or about 1975, F & M Enterprises, Inc., the Petitioner here, purchased the subject property from The Edgemere Holding Company. ***Petitioner's exhibit 8.*** In or about 1974, The Edgemere Holding Company was denied its request for lot widths of 50' each to permit two dwellings then existing on the subject property in lieu of the required 55' for each. ***Petitioner's exhibit 9.***

The Petitioner presented Paul Lee (hereinafter referred to as "Lee"), accepted by the Board as an expert in land use and zoning in Baltimore County, who testified extensively about the location of the subject site, its history, the history of the Sparrows Point shipyards in general, and the proposed two single-family dwellings. In particular, it is important to note the zoning history of the property, as follows:

- Case #s: 05-239A and 05-240A—deputy zoning commissioner denied on January 26, 2005, variances for same property as is the subject here to permit two (2) 50' lot widths ***and two (2) 25' front yard setbacks instead of 30.75' setbacks (emp added);***
- Board of Appeals on April 7th, 2006, by written decision and order, granted Petitioner's request to construct 2 houses with lot widths of 50' each on the property. Petitioner prior to the hearing withdrew its request for variances. The Board ruled that §1B02.3.1C was not applicable;
- Subsequent to Board's decision, prior to the expiration of the 30 day appeal period, People's Counsel and Protestant, Mr. Nelson, filed motions for reconsideration;

- Board deliberated, in public session, and denied the motions for reconsideration, but withheld a written decision at the request of Petitioner.
- Petitioner then filed its instant petition for variances, to permit two (2) 50' lot widths only. Setback variances have not been requested;
- The zoning commissioner, in case # 07-275 A, granted the lot width variances, from which Mr. Nelson has appealed.

Using the Sparrows Point record plat, ***Petitioner's exhibit 2,*** the 2004 and 2000 zoning maps, ***Petitioner's exhibits 3 and 4,*** and the tax map 111, ***Petitioner's exhibit 6,*** Mr. Lee drew a picture of the uniqueness, in zoning terms, of the subject property. Then, as is today, each of the lots comprising the subject property was rectangular in shape. Each of the lots is 20' wide. The lots making up Sparrows Point Manor are mostly 20' and 25' wide, with homes built on an assortment of combination of lots, many built on lots combined to equal 40', some on lots combined to equal 50', or 60' or 80'. Mr. Lee testified that Mr. Nelson, the Protestant herein, lived adjacent to the property, with his home on lots 391, 392, 393, and 394, a total of 80'. Mr. Nelson also owned the house adjacent to his, on lots 388, 389, and 390, a total of 60'. ***Petitioner's exhibit 1.*** On the opposite side of the subject property, at 2625 Marine Ave., the existing dwelling existed on 2 lots, a total of 40'. Using ***Petitioner's exhibit 1*** as a guide down Marine Ave., clearly varying combinations of lots exist on both sides, and indeed throughout the subdivision. More dwellings are on 40' and 50' combinations of lots than exist on any other combination. Mr. Lee then testified extensively about the subdivisions surrounding the Sparrows Point shipyards and their relationship to the shipyards. The numbers of lots within these subdivisions, each developed and platted in the early years of the twentieth century, were determined by their lot widths. ***Petitioner's exhibit 6.*** The obvious goal of increasing the number of building lots available was to provide for the ever-growing number of employees at the shipyards. What is unique is not the 20' lot width, but the varying combinations of lots, all undersized under current zoning regulations, used to construct homes. This is the underpinning of the instant request. While there are exceptions, most dwellings are on what is now considered under current zoning lots less than 55' wide.

Mr. Lee testified, in his opinion, the neighborhood, defined for zoning purposes, should not be limited to Sparrows Point Manor but must include the subdivisions surrounding the shipyards and including the shipyards. The shipyards, identified on ***Petitioner's exhibit 6 as Bethlehem Steel Co, are*** the hub around which all of these subdivisions were created to provide for the shipyards' growth. It was the ever-increasing need for housing to satisfy the ever-increasing numbers of employees needed by the shipyards in the early half of the 20th century that lead us here. Over the past century, the character and land use surrounding the shipyard enjoyed, or suffered, in equal measure, tremendous and significant change. Commercial and industrial uses were needed and grew. In particular, Mr. Lee pointed to the commercial and non-residential uses immediately adjacent to the existing dwellings in Sparrows Point Manor, and, particularly, adjacent to the instant property. The immediate neighborhood has seen a dramatic shift in use, and the zoning classifications imposed on these lots confirm the County Council's recognition that commercial uses are intended to expand at the expense of the existing residential uses. Why else the application of BL-AS and RO?

On direct examination, Mr. Lee opined that to construct a house on these 5 combined lots would be a practical difficulty for the owner. Any such house would have to be larger than those presently existing in the area and would inherently be out of character. No one would buy it.

QUESTION PRESENTED

Do the proposed variances for lot widths comply with the provisions of Section 307.1, BCZR?

ARGUMENT

The Zoning Commissioner's decision to grant the requested variance should be upheld.

(A) The subject property is "unique".

The evidence and testimony presented by the Petitioner is sufficient for the requested variances of 50' in lieu of required 55' lot widths to be granted.

The property at issue here is indeed "unique" and satisfies the criteria established in ***Cromwell v. Ward,*** 102 Md App 691 (1995) and ***North v. St. Mary's County***, 99 Md App 502 (1994).

"Uniqueness" as used in ***Cromwell*** is in reality a "special circumstances or conditions" requirement. The use of the term "uniqueness" within the context of zoning law must be defined differently and much narrower than when otherwise used. It carries a "specialized meaning" in zoning law. See ***Umerley v. People's Counsel for Baltimore County***, 108 Md. App. at 506.

> ...the zoning authority must determine whether the subject property is unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to have a disproportionate impact on the property.

Umerley, 108 Md. App. at 506.

Cromwell's thrust is to determine where, by reason of the property's shape, or by the other special circumstance as sited as examples by the Court, the literal enforcement of the zoning regulation at issue would make it "exceptionally difficult" for the applicant for the variance to comply with the regulation. ***North v. St. Mary's County***, 99 Md. App. 502, 514—15 (1994).

Particularly unique, in Mr. Lee's opinion, was that Sparrows Point Manor and the other subdivisions surrounding the shipyards were created as a planned neighborhood in which were to be constructed as many dwellings as possible to permit workers to live

near their work. This planned and resultant density of residential development in this area rendered the "uniqueness". The "uniqueness" of the planned residential growth changed when zoning came to Baltimore County, and, with the application of the varying zoning classifications, particularly the tripartite zones, to the subject lots, it was these lots that in particular were transformed into the "uniqueness" intended by *Cromwell.*

It is not the dwellings on myriad combinations of lots that go to the application of "uniqueness", but the specific proposed 2 dwellings proposed by the petitioner as they specifically relate to the particular property that is the measurement.

The different zoning classifications, DR 5.5, BL-AS and RO contribute to the subject property's zoning uniqueness. While other lots within the Sparrows Point Manor subdivision also have split zoning, BL-AS and DR 5.5 or RO and DR 5.5, the subject property has the 3 zones. Using the neighborhood, either that which includes Sparrow Point Manor specifically or that which incorporates the shipyards and its surrounding subdivisions, it is obvious the commercial and industrial uses immediately adjacent to Sparrows Point Road, Manor Ave, Marine Ave, and Edgemere Ave, all of which comprise the road network for Sparrows Point Manor, confirm the uniqueness of the subject property, *as intended by the County Council.* ***See Petitioner's exhibit 1.*** As the Zoning Commissioner pointed out in his decision, dated 6 March 2007, it is the existence of the BL-AS zone that denotes this intrusion. Amongst BL-AS's uses permitted is fuel service! While the area of BL-AS is small, it is still significant. Building one house on these five 20' wide lots makes no viable sense. The Office of Planning pointed out in its comments, ***Petitioner's exhibit 11,*** there are other existing dwellings on undersized lots, and, therefore, did not oppose the request for variances. The Office of Planning noted,

rightly, that the Petitioner does not meet the standards of §304.1 of the BCZR. The Petitioner did not request approval under §304, but pursuant to §307. There is sufficient and overwhelming visual evidence that dwellings on undersized lots within the subdivision exist. To not grant the variances requested here would be to fail to recognize the obvious.

Mr. Lee testified that, with the BL-AS and RO designations attached, the subject property would not support either, one very large house or one very small house, proportional to the size of the combined lots, sited on the subject property. Mr. Nelson, the Protestant, however, argued that there are other large and expensive houses in the immediate neighborhood and one large house would fit in just fine. He was not able to present any evidence in support of his allegations. He did testify about one, apparently a relatively new house, recently built on a large lot. On cross-examination, he was asked to identify the lots on which this house was built. He pointed to lots 343 and 344 on the Sparrows Point Manor plat, ***Petitioner's exhibit 2.***, which are located at the corner of Steel Ave and Marine Ave. These lots, approximately 107' x 135' x 38' x 120', itself unique in their shape, underscore Mr. Lee's contention that the Petitioner's property is unique. These 2 lots, on a corner and by their own unique shape and size, are in no way similar to the lots that are the subject of this matter. A location of a house on those lots has no similarity to a possible single house located on the subject property.

Also, Mr. Nelson asked the Board to have introduced photos he submitted in Case No. 05-239 into evidence in this matter. The Board agreed. These photos speak for themselves. Together, the photos speak to the typical size house in this community.

Each is similar to the other and obviously represents the size and type viable in this community. None are the type or size that would be compatible on a property 100' wide. Mr. Nelson's own testimony and evidence support Mr. Lee's contention that a house, compatible in size to fit on these lots would not be realistic. Further, they confirm that a house, similar to those shown in the photos, equally would not be financially realistic if built on a 100' wide lot. None of the houses shown in the photos or the house on lots 343 and 344 is the type that would be sellable if constructed on a 100' wide lot.

When the County Council placed the BL-AS and the RO zones on the property, the Council determined that myriad uses were appropriate, many by right and others by special exception. Each of those uses is presumed by law to be "suitable" for the property on which the zoning has been imposed.

The Court of Special Appeals in ***Cromwell*** stated:

> ...The Baltimore County ordinance requires "conditions"...peculiar to the land...practical difficulty..." Both must exist...However, as is clear from the language of the...ordinance, the initial factor that must be established before the practical difficulties, if any are addressed, is the abnormal impact the ordinance has on a specific piece of property because of the peculiarity and uniqueness of that piece of property, not the uniqueness or peculiarity of the practical difficulties alleged to exist. It is only when the uniqueness is first established that we then concern ourselves with the practical difficulties..."

The Court then went on to state its interpretation of the "uniqueness" factor.

> In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of the improvements upon the property, or upon the neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has 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...

The property is

> ...peculiar, unusual, or unique when compared to other properties in the neighborhood such that the ordinance's height restriction's impact upon the subject property would be different than the restriction's impact upon neighboring properties.

While it is not the lot sizes comprising the totality of the Petitioner's property that makes them unique, it is the shape of the Petitioner's property itself that does. When compared to other properties in the neighborhood, it's "uniqueness" is exacerbated by the number of lots comprising it. If the Board were to deny the requested variances, thereby requiring conformity with the strictures of §1B02.3C, BCZR, the impact upon the "subject property would be different than the restriction's impact upon neighboring properties."

The zoning configurations and permutations and the rectangular shape of the property consisting of five 20' wide contiguous lots meet the criteria established for "uniqueness".

Where would one house be placed on the property? While Mr. Nelson argues this is not the issue, as one house would be permitted as of right, it is in fact the issue. Mr. Nelson argues that the only reason for the requested variances to permit two houses is financial, and therefore should be denied. While this issue will be addressed below, there is no viable location to construct a single dwelling without it being out of touch with the reality of the subdivision, and, without the variances requested, the use of the site for the use proposed would severely be restricted by the zoning and financial constrictions.

There are no other properties in the neighborhood similarly vacant, surrounded by such dissimilar zoning classifications and uses within those zones. See ***Petitioner's exhibits 1, 2, 3 and 4.***

The Petitioner did not cause the unique circumstances it confronts; they are caused by the history and growth in the neighborhood prior to the imposition of zoning itself and the changing dynamics over time, and by the uniqueness of the zoning imposed on it and the surrounding properties. See ***Cromwell***, at 719.

It is not the contiguity of five 20' wide lots that creates the issues presented here; it is the imposition of the applicable zoning regulation, imposed long after the lots themselves were created, which requires certain building lot widths. "Strict implementation" of these lot widths would "impede" the proposed use.

Certainly, dwellings are permitted as of right in the DR 5.5 zone. However, the construction of a dwelling in strict compliance with the lot width requirement would unreasonably prevent the Petitioner from using its property for the permitted purpose intended.

The subject property is unique in a zoning sense, and the reasoning for this is as defined by ***Cromwell***, supra.

Most importantly, and as recognized by both the Zoning Commissioner and by the Office of Planning, the regulation as applied here impact the Petitioner's property disproportionately from other properties within the subdivision or neighborhood.

Another way to ask the question is to inquire whether there are other properties in this limited geographic area of Sparrows Point Manor, bordering Sparrows Point Road,

by which the particular Baltimore County Zoning Regulation at issue here has restricted from being developed? The record is clear that there are not.

The different zoning classifications, DR, RO and BL-AS, impacting the subject property make the property unique. The Board is required to look at the neighborhood for its analysis, not just to look at individual lots of record. The Board should acknowledge the businesses immediately adjacent, on Sparrows Point Road, not just to the residences, themselves located in the subdivision. Placed in context of when the zoning was put in place, this property is unique.

Mr. Lee testified that, in his opinion, the property meets the criterion set out in ***Cromwell***.

(B) Practical Difficulty exists.

Regarding practical difficulty, we look to ***McLean v. Soley***, 270 Md 208 (1973), where the Court of Appeals confirmed the variance granted below and approved the test in regard to practical difficulty as follows

1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner form 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 world 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.

Considering the evidence and testimony presented to the Board, the tenets set out in ***McLean*** were certainly established. The variance if granted would be in strict

harmony with the spirit and intent of the regulations, and there certainly would not be any injury to the public, health, safety and general welfare.

The testimony of the Petitioner's engineer demonstrated that strict compliance with the requisite zoning lot width requirement to the unique characteristics of the property as described above would cause "peculiar or unusual practical difficulties" justifying the variances requested. ***Montgomery County v. Rotwein***, 169 Md App 716 (2006), citing ***Cromwell***, 102 Md App at 706. ***See Petitioner's Exhibit A, attached hereto.***

Mr. Lee testified there is no practical or realistic way to place a single dwelling on the subject property. Certainly "ample" room does exist for one house. However, the location of a single dwelling is not just a "matter of convenience." ***Rotwein, 176 Md App at 730.*** The issue is what the immediate neighborhood would support in terms of size and housing type. The placement of a single dwelling similar to those shown by Mr. Nelson's photos on the property would be neither compatible with the community and be impractical.

> The expression "practical difficulties or unnecessary hardships" means difficulties or hardships which are peculiar to the situation of the applicant for the permit and are of such a degree of severity that their existence is not necessary to carry out the spirit of the ordinance, and amounts to a substantial and unnecessary injustice to the applicant....

Carney v. City of Baltimore, 201 Md 130, 136-37 (1952)

Mr. Nelson's argued before the Board that the Petitioner's proposed use of the subject property was driven by financial consideration. However, "financial concerns are not entirely irrelevant." ***Rotwein, 176 Md App at 733***. The Court of

Special Appeals said the pertinent inquiry is whether "it is impossible to secure reasonable return from or to make a reasonable use of such property." ***Rotwein, 176 Md App at 733,*** citing ***Marino v. City of Baltimore***, 215 Md. 206, 218 (1957). Again, it is not that a single dwelling is permitted, but the reasonable use, and financial return, of the property by the Petitioner for the use it proposes.

Considering the evidence and testimony presented to the Board, the tenets set out in ***McLean*** were certainly established. The variances if granted would be in strict harmony with the spirit and intent of the regulations.

"It is not whether the Appellant's property is subject to any reasonable and significant use without being granted a variance, but is a question of whether the requested variance is reasonable..." ***Lewis v. Dept of Natural Resources***, 377 Md. 382 (2003).

In ***Alviani v. Dixon***, 365 Md. 95 (2001), the Court of Appeals affirmed area variances for a fuel service station in Anne Arundel County. The variances granted were specific for the particular use proposed, i.e., canopies over pump islands. See ***Alviani***, at pp 105-06. Other uses certainly were permitted on the subject property, but the variances were needed for the gas station. The Court did not look at other uses; it looked at the specific use, the property on which the use was proposed, and the "uniqueness" of the property in conjunction with the likelihood of the property owner to locate the use on the property. ***Becker v. Anne Arundel County***, 174 Md App 114 (2007).

The testimony of the Petitioner's expert, Mr. Lee, demonstrated strict compliance with the requisite zoning lot width requirement to the unique characteristics of the

property would cause "peculiar or unusual practical difficulties" justifying the variance requested and that there would no injury to the public, health, safety and general welfare. ***Montgomery County v. Rotwein***, 169 Md App 716 (2006), citing ***Cromwell***, 102 Md App at 706.

The Petitioner's proposal complies with the regulations' intent and satisfies the strictures required for approval of the requested variances.

Without repeating the obvious, the subject site is unique in a zoning sense and the Petitioners would further suffer a practical difficulty if the requested variance was to be denied.

CONCLUSION

For the above stated reasons, the Petitioners respectfully request that the Board of Appeals of Baltimore County find that:

The Petitioner has complied with §307, BCZR, and the variances for two 50' lot width in lieu of the required 55' be granted.

Respectfully submitted,

Arnold Jablon
Venable, LLP
210 Allegheny Ave.
Towson, Maryland 21285-5517
(410) 494-6298

Certification of Service

IT IS HEREBY CERTIFIED that a copy of the foregoing Petitioners' Hearing Memorandum was mailed by first class delivery, postage prepaid, on this 29th day of May 2008 to Mr. Thomas Nelson, 2617 N. Marine Ave., Baltimore, Maryland 21219.

Arnold Jablon

5/3/07

FROM: Thomas Nelson, 2617 North Marine Avenue, Baltimore, MD. 21219.
Day phone: 410 - 869 - 7121

RE: PETITION FOR VARIANCE * **BEFORE THE**
E/S of North Marine Ave, 346 N/c/line
Sparrows Point Rd. * **ZONING COMMISSIONER**
(2623 Marine Avenue)
15th Election District * **OF**
7th Council District
* **BALTIMORE COUNTY**
F&M Enterprises, Inc., Owner
Petitioner * **Case No. 07-275-A**

* * * * * * * * *

Appeal of order dated, 4th of March 2007, after denial of motion for reconsideration dated, 4th April 2007.

Thomas Nelson MAY 3, 2007
Date:

RECEIVED
MAY - 3 2007
Per

4/4/07

IN RE: **PETITION FOR VARIANCE** E/S of Marine Ave, 346' N c/line Sparrows Point Rd **(2623 Marine Avenue)** 15th Election District 7th Council District F & M Enterprises, Inc., *Owner* Petitioners	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY **Case No. 07-275-A**

* * * * * * * * *

ORDER ON THE MOTION FOR RECONSIDERATION

This matter comes before the Zoning Commissioner on a Motion for Reconsideration filed in the above-captioned matter by Thomas Nelson, an adjoining property owner, on March 20, 2007. On March 27, 2007, Arnold Jablon, Esquire, provided written opposition to the Motion on behalf of the legal owner and Petitioner, F & M Enterprises, Inc.

By way of background, the Petitioner sought relief to allow two (2) building lots on the subject property, each having a lot width of 50 feet in lieu of the required 55 feet, as required by Section 1B02.3.C.1 of Baltimore County Zoning Regulations (B.C.Z.R). By my Opinion and Order, dated March 6, 2007, I granted the Petitioner's request for the reasons set forth therein. Subsequently, the Protestant, Thomas Nelson, filed pro se a Motion for Reconsideration, seeking a new evidentiary hearing asserting substantive errors relying principally on the zoning history of the subject property and application of land use decisions of the Circuit and Appellate Courts of Maryland. In this regard, the request for Reconsideration is based in part on the recent decision of Judge Kathleen Cox of the Circuit Court for Baltimore County in *People's Counsel for Baltimore County v. Herman and Grace Mueller* (Case No. 3-C-05-7736). While this opinion came down on January 25, 2006, it was appealed and subsequently argued in the Court of Special Appeals in December and the parties currently await the Court's decision.

ORDER RECEIVED FOR FILING
Date 4-4-07
By

Consequently, and under these circumstances, I am not bound by Judge Cox's Order, which primarily dealt with the doctrine of merger as discussed in *Friends of the Ridge v. BG&E*, 352 Md. 645 (1999) and *Remes v. Montgomery County*, 387 Md. 52 (2005). Therefore, I find no need to reopen the record of this case to discuss issues that have been previously addressed at the public hearing.

Mr. Nelson has keenly identified and developed the essential grounds for the request for Reconsideration. However, after due consideration of the representations made in his Motion and the testimony and evidence presented at the hearing, I am convinced that there is no reason to reconsider the decision in this matter.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 4th day of April 2007, that the Motion for Reconsideration filed in the above-captioned matter, be and the same is hereby DENIED.

Any appeal of this decision shall be entered within thirty (30) days of the date of the hereof.

WILLIAM J. WISEMAN, III
Zoning Commissioner for
Baltimore County

c: Arnold Jablon, Esquire, Venable, Baetjer & Howard, LLP, 210 Allegheny Avenue, Towson, MD 21204
Mr. Michael J. Narutowicz, II, 1435 Autumn Leaf Road, Towson, Md. 21286
Mr. James A. Narutowicz, Jr., 900 East Seminary Avenue, Towson, Md. 21286
Mr. Paul Lee, Century Engineering, Inc., 10710 Gilroy Road, Hunt Valley, Md. 21031
Mr. Thomas Nelson, 2617 North Marine Avenue, Baltimore, Md. 21219
People's Counsel; Office of Planning; Case File

ORDER RECEIVED FOR FILING
Date 4-4-07
By D#33

3/20/07

FROM: Thomas Nelson, 2617 North Marine Avenue, Baltimore, MD. 21219.

RE: PETITION FOR VARIANCE E/S of North Marine Ave, 346 N/c/line Sparrows Point Rd. **(2623 Marine Avenue)** 15th Election District 7th Council District F&M Enterprises, Inc., Owner Petitioner	*	**BEFORE THE** **ZONING COMMISSIONER** **OF** **BALTIMORE COUNTY** **Case No. 07-275-A**

RECEIVED

MAR 9 2007

ZONING COMMISSIONER

* * * * * * * * *

MOTION FOR RECONSIDERATION

Thomas Nelson (protestant) files this motion for reconsideration of the findings of fact and conclusion of law dated March 6, 2007:

1) Thomas Nelson (protestant), requests that the Zoning Commissioner reconsider its order because of substantive errors. Previous requests for the same variances have been denied, both on June 25, 1974 (Case# 74-99-A) where the Zoning Commissioner found that " strict compliance with the Baltimore County Zoning Regulations would not result in practical difficulty and /or unreasonable hardship upon the petitioner, and the Variances should NOT BE GRANTED." and again most recently DENIED on January 26, 2005 (Case. Nos. 05-239-A and 05-240-A). And neither case was successfully appealed. The Petitioner Mike Narutowicz, (F&M Enterprises, Inc.) as a witness in Cases Nos. 05-239-A and 05-240-A, testified to owning 40 to 45 houses in the area and conceded that variance relief for the subject property had been previously requested and denied by Baltimore County. When questioned about the uniqueness of the subject

properties the witness responded that they 'were not substantially' different and that there were 'no real differences'. This negates the precept of "uniqueness" and thus disqualifies the petitions under Cromwell v. Ward 102 Md. App. 691 (1995). The fact that variance relief was previously denied is also fatal to the petition. Whittle v. County Board of Appeals 211 Md. 36 (1956); Woodlawn Area Citizens Ass'n v Co. Comm'rs 241 Md. 187 (1966).

2) While Paul Lee's claim that the "mixed zoning classifications" of Sparrows Point Manor and the "density of home development that resulted render the area unique," this is not a probative as to uniqueness of the properties in question. Nor is there any relevance to his claim that the imposition of new standards in the 1955 BCZR made the property unique. Judge Kathleen Cox rejected this absurd thesis in her recent opinion in the Mueller case, attached.

3) F&M Enterprises can make reasonable use of its property and secure a reasonable return by constructing a single home without restriction or need for variance of any kind, as have the neighbors on adjacent properties of larger sizes than the minimum 55' front (2627, 2617, 2618, 2615 and 2611 N. Marine Avenue).

4) The applicant can not reasonably claim hardship; since it owns buildable lots across the street on North Marine Avenue, and had opportunity to acquire adjacent lot# 394 in June 1974 when they first applied for this same variance.

5) Strict compliance with the requirement would not unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome since homes have been built around the subject property on North Marine Avenue on larger front footage without restriction or the need for variances at 2627, 2617, 2618, 2615 and 2611 N. Marine Avenue.

6) The property where structures are to be placed is not unique, unusual or different from the surrounding properties such the uniqueness causes the zoning provision to impact more on the subject property than on surrounding properties. In fact, all the surrounding properties on the east side of North Marine Avenue have had homes built under the same zoning provisions and have similar superimposed zoning designations which did not cause the zoning provision to impact more on them than on the surrounding properties. That is to say; the home at 2617 N. Marine was built in 1975 on an 80' front group of lots without suffering more impact than the homes built on any normally zoned DR 5.5 lots in the district, the home at 2627 N. Marine Avenue was built on a 60' front lot without suffering more impact than the home built at 2611 N. Marine Avenue on a 140' front group of lots, the home at 2615 N. Marine Avenue was built on a 60' front lot without suffering more impact than the home built directly across the street at 2618 N. Marine Avenue on a 130' front lot; clearly demonstrating that the superimposed zoning designations have no more impact on the subject property at 2623 N. Marine Avenue than the similar superimposed zoning designations on surrounding properties at 2627, 2617, and 2615 N. Marine Avenue.

Thomas Nelson

2617 North Marine Avenue

Baltimore, MD. 21219

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of March, 2007, a copy of the Motion for Reconsideration was mailed to Arnold Jablon, Esq., Venable LLp, 210 Allegheny Avenue, Towson, MD 21204, attorney for the Petitioners, to Paul Lee, Century Engineering, Inc, 32 West Road, Towson, MD 21204, representative for the Petitioners.

Thomas Nelson March 20, 2007

Thomas Nelson

2617 North Marine Avenue

Baltimore, MD 21219

Zoning Office
Department of Permits and Development Management
111 West Chesapeake Ave
Towson, Maryland 21204

Zoning Office:

Please be advised that we, the undersigned, have authorized Arnold Jablon, Esq., Venable, LLP, 210 Allegheny Ave., Towson, Maryland 21204, to be our attorney-in-fact and attorney-at-law and on our behalf file the attached petitions for zoning relief. We hereby understand that the relief requested is for property we own and we hereby and herewith acknowledge our express permission for said petitions to be filed on our behalf. The petition(s) filed are for property located at 2623 Marine Ave., property we own.

F & M Enterprises, Inc. (owner)

By: _____ 12-12-2006 (Date)
Michael J. Narutowicz, II

By: _____ 12-12-06 (Date)
James A. Narutowicz, Jr.

5200 North Point Blvd, Baltimore, Maryland 21219
address

07-275-A

PETITION OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY	*	IN THE
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	CIRCUIT COURT FOR
IN THE MATTER OF APPLICATION OF **HERMAN AND GRACE MUELLER**	*	BALTIMORE COUNTY
	*	Case No. 3-C-05-7736

* * * * * * * * * * *

MEMORANDUM OPINION

This matter comes before the Court on appeal from the decision of the Baltimore County Board of Appeals (the "Board") dated July 8, 2005. The Court has considered the memoranda filed by both parties, the post-hearing memoranda addressing the impact of the sale of one of the parcels of land at issue, and the arguments of counsel on January 9, 2006, in reaching the decisions set forth in this Memorandum Opinion.

I. PROCEDURAL AND FACTUAL BACKGROUND

When this zoning matter was initiated, Grace and Herman Mueller, Jr. owned two adjoining lots in Baurenschmidt Manor, a 1940 waterfront subdivision on Turkey Point in Baltimore County. In 1947, Mr. Mueller's parents, Herman and Thelma Mueller, purchased Lot 66 on Baurenschmidt Drive, along with an adjacent sliver of land. Lot 66 is approximately 8500 sq. ft., and is 50 feet wide. In accordance with the zoning then in existence, a home was constructed on Lot 66 in 1948. In 1960, Herman and Thelma Mueller purchased the adjacent parcel, Lot 67. Lot 67 is approximately 5700 sq. ft. and 60 feet wide. Both parcels were

PETITION OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY	*	IN THE
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	CIRCUIT COURT
	*	FOR
IN THE MATTER OF APPLICATION OF **HERMAN AND GRACE MUELLER**	*	BALTIMORE COUNTY
	*	Case No. 3-C-05-7736

* * * * * * * * * * *

JUDGMENT ORDER

For the reasons stated in this Court's Memorandum Opinion dated January 25, 2006, it is ORDERED this 25 day of January, 2006 as follows:

The Court finds that the July 8, 2005 decision of the Board of Appeals was premised on an erroneous interpretation of the law, and thus was in error. For that reason, the decision of the Board of Appeals is REVERSED, and this case is remanded for entry of a ruling consistent with the ruling set forth in this opinion.

JUDGE KATHLEEN GALLOGLY COX

Date: 1/25/06

Clerk: Please send copies to all parties.

Copy Test
SUZANNE MENSH, Clerk
per
Assistant Clerk

VENABLE LLP

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517

Telephone 410-494-6200
Facsimile 410-821-0147

www.venable.com

ARNOLD JABLON
(410) 494-6298

ajablon@venable.com

27 March 2007

Hon. William Wiseman
Zoning Commissioner
401 Bosley Ave
Towson, Maryland 21204

Re: 2623 Marine Ave.
Case No. 07-275-A

Dear Mr. Wiseman:

I am in receipt of a copy of Mr. Nelson's' Motion for Reconsideration forwarded to you, dated March 20, 2007, in which he requests that you reconsider your decision in the instant matter.

While the Zoning Commissioner's Rules of Practice and Procedure permits the filing of a motion for reconsideration, the filing such a motion must be predicated on fraud, mistake or irregularity. See Maryland Rule, 2-535. There is nothing in Mr. Nelson's motion that meets the legal standards required. The arguments Mr. Nelson makes in his motion are reiterations of the arguments he presented to you at the hearing.

Therefore, I request that you deny his motion.

Sincerely,

Arnold Jablon
AEJ/aj

c: Thomas Nelson

3/06/07

IN RE: **PETITION FOR VARIANCE** E/S of Marine Ave, 346' N c/line Sparrows Point Rd **(2623 Marine Avenue)** 15th Election District 7th Council District F & M Enterprises, Inc., *Owner* Petitioners	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY **Case No. 07-275-A**

* * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the property, F & M Enterprises, Inc., through its attorney Arnold Jablon, Esquire. The Petitioner requests two variances of 50' in lieu of the required 55' in order to create two building lots on its property, pursuant to Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R). The subject property and requested relief are more particularly described on the site plan submitted and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing on behalf of the Petitioner were Arnold Jablon, Esq., Venable, LLP, and Paul Lee, a civil engineer, with Century Engineering, Inc., who has been recognized and accepted as an expert witness on land use and zoning matters numerous times before this Commission and the County Board of Appeals. Thomas Nelson, an adjoining property owner, appeared in opposition. There were no other Protestants or any other interested parties in attendance.

Testimony and evidence offered revealed that the subject property is comprised of five (5) twenty (20) foot wide rectangularly shaped lots located at the east side of Marine Avenue off of Sparrows Point Road. The subject property consists of a net area of 12,500 square feet or

ORDER RECEIVED FOR FILING
Date 3-9-07
By DRJ

0.5334 acres, more or less, and is vacant. As shown on the site plan, these are identified as Lots 395-399. The property fronts on Marine Avenue, between Steel Avenue and Sparrows Point Road and is split-zoned D.R.5.5 (0.253 acres), R-O (0.031 acres), and B.L.-A.S. (0.0003 acres). The B.L.-A.S. and R-O portions are located to the east or rear of the property. The subject lots are in the subdivision known as Sparrows Point Manor, which was recorded among the Land Records of Baltimore County in 1921. The purpose of the variance request is to allow the owner to have two building lots on the subject property, each having a lot width of 50' in lieu of the required 55', as required by the zoning classification.

Mr. Lee presented an overview of the zoning history relating to the instant property. The facts have not changed nor have the names. This recent zoning history does, however, leave a trail that leads directly to this Zoning Commissioner by way of the Deputy Zoning Commissioner and the County Board of Appeals. On January 26, 2005, Deputy Zoning Murphy denied requests for variances to permit 50' widths for two lots instead of the required 55' and for a 25' front yard setback instead of the required front yard average of 30.75' and denied approval for undersized lots. The lots at issue in Case Nos. 05-239-A and 05-240-A were the same lots (Lots 395, 396, 397, 398 and 399), as are before me in this case. The owner, F & M Enterprises, Inc., in timely manner filed an appeal to the County Board of Appeals. Before the Board of Appeals, F & M appeared, and was represented by Mr. Jablon, and Mr. Nelson appeared as a Protestant pro se. Mr. Nelson as indicated above, appears before me also as a Protestant in the instant matter. He also appeared before Deputy Zoning Commissioner Murphy in opposition in Case Nos. 05-239-A and 05-240-A. Before the Board, Mr. Jablon moved to dismiss the requested variances and argued that the lots at issue were not subject to B.C.Z.R. Section 1B02.3.1. He argued, and the Board agreed, that when the subparts of Section 1B02.3 are read

together, the subject lots were exempt from the width requirements of the "small lot" table found in Section 1B02.3.C.1. The Board noted on page 1 of its decision that Mr. Jablon withdrew the requests for variances. The Board therefore did not need to address them. Subsequent to the Board's decision, People's Counsel and Mr. Nelson filed motions for reconsideration. The Board has not rendered a written decision on the motions filed, although it did meet in public deliberation and denied the motions.

Mr. Jablon explained during his opening statement that due to the withdrawal of the variance requests in Case Nos. 05-239-A and 05-240-A before the Board of Appeals, which is a de novo proceeding, any new request for similar variances is not precluded. In other words, there is no res judicata preclusion due to the withdrawal before the Board. It is also noted that before Deputy Zoning Commissioner Murphy, the requests in effect were for four variances — permission to create two lots out of five twenty foot lots of 50' width each in lieu of the required minimum of 55'; and for front yard setbacks on each of the two lots for proposed dwellings of 25' in lieu of the required 30.75'. Here, the request is for permission to create two lots of 50' width in lieu of the required 55' each. In my opinion, the request is dissimilar from the original requests and does not preclude the Petitioner from filing the instant petition. If the requested relief is granted, the Petitioner must comply with the setback requirements as otherwise required by Section 1B02.3C.1.

As in this case, Mr. Jablon presented Mr. Lee, who testified before Mr. Murphy and before the Board of Appeals, in support of the proposal. I have read carefully the decisions rendered by Mr. Murphy and by the Board of Appeals. The facts are as follows: the lots making up Sparrows Point Manor are mostly 20' and 25' wide, with homes built on an assortment of combination of lots, many built on lots combined to equal 40', some built on lots combined to be

50', or 80', or more. *See* Petitioner's Exhibit 11 noting the building scheme in the Sparrows Point Manor subdivision. Indeed, Mr. Nelson's home, at 2617 Marine Avenue, on Lots 391-394, immediately adjoining the subject lots, is positioned on an 80' lot width. Mr. Nelson also owns a dwelling on Lots 388-390 which also enjoys a 60' width. The adjacent lots (400-401) to the southwest side of the subject lots, known as 2625 Marine Avenue, has an existing dwelling positioned on two lots with a combined 40' width. Continuing on the same side of the street, 2627 Marine Avenue is improved with a dwelling on three lots, 60', and then two lots, 40' wide, identified on Petitioner's Exhibit 1 as Lots 405 and 406. Similar varying combinations exist on the opposite side and throughout this subdivision. Mr. Lee did an extensive survey of the surrounding neighborhood, which he defined for the purposes of this hearing as the subdivisions surrounding the Bethlehem Steel Company, as shown on Petitioner's Exhibits 5 and 6. He determined the Beth Steel Company as the focal point or hub because of the history of the immediate area, the beginning of the shipyards and the ever-increasing need for housing for employees as the shipyard grew and expanded. Mr. Lee concluded that the neighborhood included not just the lots at issue here, but the land uses adjacent to and extending from these lots, the primary streets (e.g., Sparrows Point Road, North Point Boulevard), and adjacent subdivisions such as Lodge Forest, Chesapeake Terrace, Cedar Crest, Battle Park, as well as Sparrows Point Manor. Mr. Lee testified that this is an area that included significant change in character and land use throughout the 20th century. He surveyed the surrounding subdivisions, which he testified were all similar in land use type to Sparrows Point Manor. He concluded that the standard lot widths of 20' and 25', created in the 1920's by record plat and recorded in the land records of the County, were to serve the expanding steel and shipyard industry at Sparrows Point in order to provide more lots and thus more homes for the ever increasing numbers of

employees attracted to Sparrows Point for employment. It is an obvious conclusion that there was no consistent pattern of lot size on which dwellings were built -- 40', 50', 60', 80', 85', and 100'. However, most would certainly not comply with today's zoning standards as set out in the B.C.Z.R. Further, as Mr. Lee testified, over the years since the 1955 zoning regulations were adopted, numerous area variances have been granted in these contiguous subdivisions bordering the steel yards, not to mention those homes on narrow lots constructed prior to the 1955 adoption of the B.C.Z.R. See also the Office of Planning Zoning Advisory Committee (ZAC) comment, in which it does not oppose the request, with certain provisos. The comment corroborates Mr. Lee's conclusions — "there appears to be several existing undersized lots in the neighborhood".

The first question to be asked is whether the lots at issue here are unique within the definition of *Cromwell v. Ward,* 102 Md App 691 (1995). Mr. Lee testified that in his opinion, they are. He concluded that the different types of zoning classification, D.R.5.5, B.L.-A.S. and R-O make them so. While other properties in the area also enjoy these zoning categories, it is to the neighborhood we are directed, not just to individual lots of record. There is commercial zoning and businesses immediately adjacent on Sparrows Point Road. Of particular significance is the existence of the A.S. District designation – Automotive Services. While the area of these subject lots with superimposed A.S. is comparatively small, it is significant nonetheless. These 20' lots are small, in-fill parcels located in a large residential tract situated adjacent to and amongst other large residential tracts of similar size and nature. Building one house on these five 20' lots would make no viable sense. The existing zoning underscores this point. According to Paul Lee, the neighborhood generally would not support either one very large house or one very small house, proportional to the size of the lot, sited on these instant lots. Especially, in my opinion, with the A.S. zoning designation attached to it. The subject lots are

adjacent to and bordered by many roads and backs up to Sparrows Point. Placed in context of when these lots were created, in the 1920's prior to any zoning in the County, these lots are unique.

The second question is whether the Petitioner will suffer a practical difficulty if not permitted to have two building lots rather than one. As stated above, two homes on these five lots will not change the character of the neighborhood. There will be no detrimental impact. It was Mr. Lee's opinion that the Petitioner would suffer practical difficulty if the relief were not to be granted. Mr. Lee testified that the density of home development that resulted in this area was unique due to the shipyards and the employment it required. Therein lies the practical difficulty. It is my opinion that the number of underutilized lots in the Sparrows Point Manor subdivision, as well as in the adjacent subdivisions, when viewed in conjunction with the number of such lots that do not comply with current zoning requirements, convince me that the Petitioner would suffer practical difficulty if its requested relief were to be denied.

After due consideration of the testimony and evidence presented, I am persuaded to grant the variance relief. There were no adverse ZAC comments submitted by any County reviewing agency. I find that the proposed two lots of 50' width to be appropriate in this instance, given the property's uniqueness and location, and that strict compliance with the regulations would result in a practical difficulty upon the Petitioner. I further find, much to Mr. Nelson's dismay, that the relief requested will be without detrimental impact to the health, safety or general welfare of the surrounding locale.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 6th day of March, 2007, that the Petition for Variance seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two 50' lots in lieu of the required 55' (lot line consolidation for 5-20' lots, total = 100'), a variance for each lot of 5', in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for a building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) Compliance with the ZAC comments submitted by the Office of Planning pertaining to building elevation submittals and providing landscaping along the public roadway, dated January 4, 2007, a copy of which is attached hereto and made a part hereof.

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

WILLIAM J. WISEMAN, III
Zoning Commissioner for
Baltimore County

ORDER RECEIVED FOR FILING
Date 3-9-07
By 9:23

BW 2/13

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: January 4, 2007

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

RECEIVED
JAN 12 2007

SUBJECT: Zoning Advisory Petition(s): **Case(s) 7-275- Variance**

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

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

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

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

Prepared By: CJM

Division Chief: Lynn Lanham

MAC/LL

ORDER RECEIVED FOR FILING
Date 3-1-07
By 2nd

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

March 6, 2007

Arnold Jablon, Esquire
Venable, Baetjer & Howard, LLP
210 Allegheny Avenue
Towson, MD 21204

RE: **PETITION FOR VARIANCE**
E/S of Marine Ave, 346' N c/line Sparrows Point Rd
(2623 Marine Avenue)
15th Election District - 7th Council District
F & M Enterprises, Inc., *Owner* - Petitioners
Case No. 07-275-A

Dear Mr. Jablon:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted with restrictions in accordance with the attached Order.

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

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: Mr. Michael J. Narutowicz, II, 1435 Autumn Leaf Road, Towson, Md. 21286
Mr. James A. Narutowicz, Jr., 900 East Seminary Avenue, Towson, Md. 21286
Mr. Paul Lee, Century Engineering, Inc., 10710 Gilroy Road, Hunt Valley, Md. 21031
Mr. Thomas Nelson, 2617 North Marine Avenue, Baltimore, Md. 21219
People's Counsel; Office of Planning; Case File

TO: PATUXENT PUBLISHING COMPANY
Tuesday, January 30, 2007 Issue - Jeffersonian

Please forward billing to:
F & M Enterprises, Inc. 410-477-1696
5200 North Point Blvd.
Baltimore, MD 21219

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: 07-275-A
2623 Marine Avenue
East side of Marine Avenue at the distance of 345 feet +/- from the centerline
15th Election District – 7th Councilmanic District
Legal Owners: F & M Enterprises, Inc., Michael & James Narutowicz

Variance to permit two 50 foot lots in lieu of the required 55 feet (lot line consolidation for 5- 20 foot lots, total = 100 feet) a variance of 5 feet each.

Hearing: Tuesday, February 13, 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.

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 2623 N. MARINE AVENUE

which is presently zoned D.R.5.5, RO & BL-AS

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) 1.B0.2.3A5

FOR 2 - 50' LOTS IN LIEU OF THE REQUIRED 55' (LOT LINE CONSOLIDATION FOR 5 - 20' LOTS, TOTAL = 100') A VARIANCE OF 5' EACH.

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

TO BE ADDRESSED AT HEARING

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

Attorney For Petitioner:

ARNOLD JABLON
Name - Type or Print

Signature

VENABLE, BAETJER & HOWARD
Company

210 ALLEGHENY AVENUE 410-494-6298
Address Telephone No.

TOWSON MD 21204
City State Zip Code

Legal Owner(s):

F&M ENTERPRISES, INC.
Name - Type or Print

Signature MICHAEL J. NARUTOWICZ, II

Name - Type or Print

Signature JAMES A. NARUTOWICZ, JR.

5200 NORTH POINT BLVD. 410-477-1696
Address Telephone No.

BALTIMORE MD 21219
City State Zip Code

Representative to be Contacted:

ARNOLD JABLON
Name

210 ALLEGHENY AVENUE 410-494-6298
Address Telephone No.

TOWSON MD 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING

Case No. 07-275-A

ORDER RECEIVED FOR FILING Reviewed By _____ Date 12/14/06

Date 3-6-07

By DFW

REV 9/15/98

DESCRIPTION
2623 MARINE AVENUE
(LOT 395 THROUGH 399 – SPARROWS POINT MANOR)
ELECTION DISTRICT 15C7 BALTIMORE COUNTY, MD

BEGINNING FOR THE SAME at a point on the East side of Marine Avenue, said point being on the division line between lots 399 & 400 and also located 345'± from the center of Sparrows Point Road; thence running with and binding on said East side 1) North 26° 28' 00" East – 100.00' to a point on the division line between lots 395 and 394, thence leaving said East side and running with and binding on said division line 2) South 63° 32' 00" East - 125.00' to a point on the rear property line, thence running with and binding on the rear property line 3) South 26° 28' 00" West - 100.00' to a point being on the division line between lots 399 and 400, thence running with and binding on said division line 4) North 63° 32' 00" West – 100.00' to the place of beginning.

Being known as #2623 Marine Avenue (Lots 395 through 399) "Sparrows Point Manor" recorded in Plat Book W.P.C. 5-82 and containing 12,500 s.f. of land more or less.

W:\leLogin2\Land-Dev\LD06\desc\2623MarineAve-pl-12-8-06

ITEM 07-275A

BR
RHEEM
MANUFACTURING
COMPANY
PARKING
AREA
S.S.
SPARROWS POINT
RHEEM MFG. CO.
TANK
BR-AS
ML-AS
BL
R.C.5
ISLAND
SNYDER
AVE.
BL
BM
BL
POINT
SYCAMORE
OAK
RO
STEEL
AVE.
D.R. 5.5
"SUBJECT SITE"
PARKING
AREA
R.C.5
D.R.
5.5
BL
RO
PRIVATE
ROAD
NORTH
POINT
BR-AS
BR
EDGEMERE
MARINE
AVE.
BL
AS
MANOR
BM-AS
BL-AS
ITEM 07-275A
SPARROWS
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RO
TRANS. STATION
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LAKEVIEW
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PAC
BRANNAN
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MARINE
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SNYDER
AVE.
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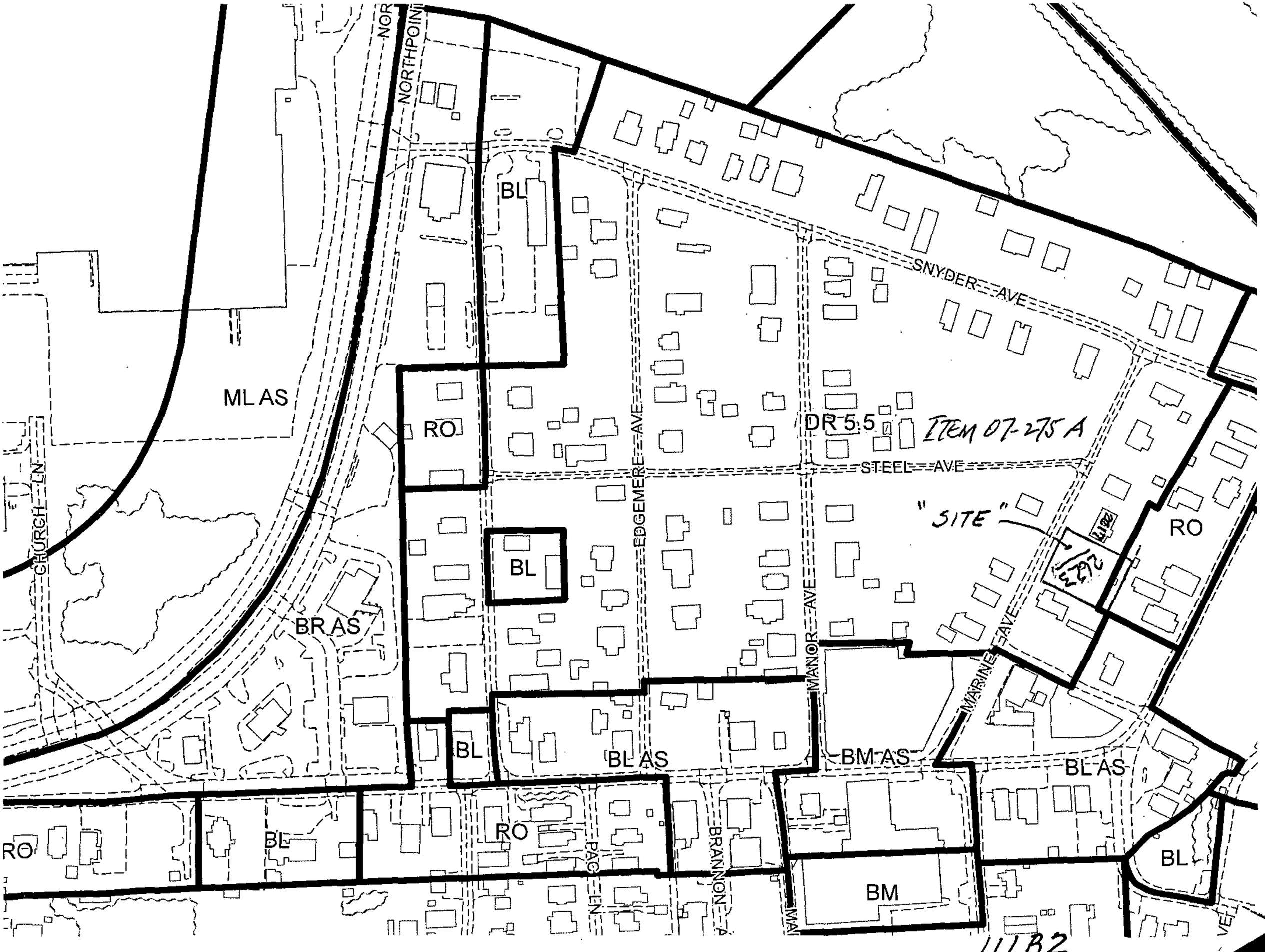
CB
AVE.
D.R. 5.5
(SHEET S.E.7-H)
ZONING MAP SE8H SCALE: 1"=200'


NORTHPOINT
BL
SNYDER AVE
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DR 5.5
ITEM 07-275 A
STEEL AVE
EDGEMERE AVE
"SITE"
CHURCH LN
BL
RO
BR AS
MANOR AVE
MARINE AVE
BL
BL AS
BM AS
BL AS
RO
BL
RO
PAC
BRANNON
BM
BL
111B2

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: 07-275A

Petitioner: F & M ENTERPRISES, INC

Address or Location: 2623 MARINE AVE- BALTIMORE, MD.

PLEASE FORWARD ADVERTISING BILL TO:

Name: F & M ENTERPRISES, INC

Address: 5200 NORTHPOINT BLVD.

BALTIMORE, MD. 21219

Telephone Number: 410-477-1696

Revised 7/11/05 - SCJ

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 23053

DATE 12-14-06 ACCOUNT 001-006-6150

AMOUNT $ 65.00

RECEIVED FROM: ARNOLD JABLON

2623 MARINE AVE.

FOR: PETITION FOR VARIANCE

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
12/18/2004	12/14/2006	13:20:46	2

REG MISC MAIL JEVA JEE
>>RECEIPT # 496200 12/14/2006 OFLH
Dept 5 520 ZONING VERIFICATION
CR NO. 023053
Recpt Tot $65.00
$65.00 CK $0.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 23005

DATE 12-19-06 ACCOUNT 001-006-6150

AMOUNT $ 65.00

RECEIVED FROM: Arnold Jablon / Century Engineering Inc

FOR: Additional fee for case # 07-275-A
Pet. for Variance @ 2623 Marnie Ave.

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 09295

DATE 5/28/08 ACCOUNT [redacted] 001-006-7120

AMOUNT $ 27.00

RECEIVED FROM: Fred Lauer

FOR: Case #: 07-275-A ; COPY Fee

(54 pages x $0.50 per page)

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
5/29/2008	3/28/2008	10:05:29	5

REG #506 WALKIN KENT KBE
RECEIPT # 627919 5/30/2008 OFLN
Dept 5 536 MISCELLANEOUS
JR NO. 009295
Recpt Tot $27.00
$27.00 CK $.00 CA
Baltimore County, Maryland

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: # 07-275-A
2623 Marine Avenue
East side of Marine Avenue at the distance of 345 feet +/- from the centerline
15th Election District - 7th Councilmanic District
Legal Owner(s): F. & M. Enterprises, Inc., Michael & James Narutowicz

Variance: to permit two 50 foot lots in lieu of the required 55 feet (lot line consolidation for 5- 20 foot lots, total = 100 feet) a variance of 5 feet each.

Hearing: Tuesday, February 13, 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 1/793 Jan. 30 123173

CERTIFICATE OF PUBLICATION

2/1, 2007

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 1/30, 2007.

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

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 07-275-A

Petitioner/Developer: F+M ENTERPRISES, INC

Date of Hearing/Closing: 2-13-07

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

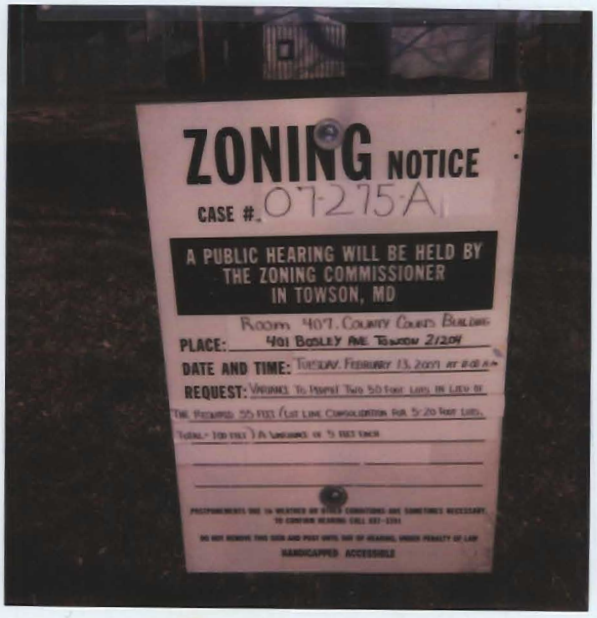
ATTN: Kristen Matthews {(410) 887-3394}

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 located at: 2623 MARINE AVE

The sign(s) were posted on 1-29-07
(Month, Day, Year)

Sincerely,



Robert Black 2-2-04
(Signature of Sign Poster) (Date)

SSG Robert Black
(Print Name)

1508 Leslie Road
(Address)

Dundalk, Maryland 21222
(City, State, Zip Code)

(410) 282-7940
(Telephone Number)

Requested: 7/5/07

APPEAL SIGN POSTING REQUEST

CASE NO. 07-275-A

E/S OF MARINE AVE., 346' N C/L SPARROWS POINT ROAD

15TH ELECTION DISTRICT APPEALED: 5/3/2007

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

*****COMPLETE AND RETURN BELOW INFORMATION******

CERTIFICATE OF POSTING

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

Attention: Kathleen Bianco
Administrator

CASE NO.: 07-275-A

LEGAL OWNER: **F & M ENTERPRISES, INC.**

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

E/S OF MARINE AVE., 346' N C/L SPARROWS POINT ROAD

The sign was posted on Aug 23, 2007.

By: _____
(Signature of Sign Poster)

Leon Wasilewski
(Print Name)

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY Kotroco, Director
Department of Permits and Development Management

January 8, 2007

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: 07-275-A
2623 Marine Avenue
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Hearing: Tuesday, February 13, 2007 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Arnold Jablon, 210 Allegheny Avenue, Towson 21204
Michael Narutowicz, II, James Narutowicz, Jr., 5200 North Point Blvd., Baltimore 21219

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JANUARY 29, 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.

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Amended notice sent 1-18-07 to reflect correct # 07-275

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

January 2, 2008

07-275

NOTICE OF ASSIGNMENT

CASE #: 07-265-A

IN THE MATTER OF: F & M ENTERPRISES, INC. – Legal Owner /Petitioner 2623 Marine Avenue 15th E; 7th C

3/06/2007 – Z.C.'s Decision in which requested zoning relief was GRANTED with restrictions.
4/04/2007 – Protestant's Motion for Reconsideration DENIED by Z.C.

ASSIGNED FOR: **THURSDAY, MARCH 13, 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: Appellant /Protestant : Thomas Nelson

Counsel for Petitioner : Arnold Jablon, Esquire
Petitioner : F & M Enterprises
Paul Lee /Civil Engineer

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

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

PP'd @ req of Counsel for Petitioner Reset to 5/01/08

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

January 18, 2008

NOTICE OF ASSIGNMENT /AMENDED AS TO CASE # ONLY *

CASE #: 07-275-A

IN THE MATTER OF: F & M ENTERPRISES, INC. – Legal Owner /Petitioner 2623 Marine Avenue 15th E; 7th C

3/06/2007 – Z.C.'s Decision in which requested zoning relief was GRANTED with restrictions.
4/04/2007 – Protestant's Motion for Reconsideration DENIED by Z.C.

*** This amended notice is sent only for the purpose of correcting the above-referenced case number, which should be, as shown, CASE NO. 07-275-A. No other changes have been made.**

ASSIGNED FOR: **THURSDAY, MARCH 13, 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: Appellant /Protestant : Thomas Nelson

Counsel for Petitioner : Arnold Jablon, Esquire
Petitioner : F & M Enterprises
Paul Lee /Civil Engineer

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

VENABLE LLP

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517

Telephone 410-494-6200
Facsimile 410-821-0147

www.venable.com

ARNOLD JABLON
(410) 494-6298

aejablon@venable.com

25 January 2008

Ms. Kathleen C. Bianco
Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Ave.
Towson, Maryland 21204

Re: Case No 07-275A
H/D: 3/13/08

Dear Ms. Bianco:

The purpose of this letter is to request a postponement of the presently scheduled hearing date of March 13th, 2008.

I am presently scheduled to be out of town and in North Carolina on this date. Therefore, I will not be able to be present.

Thank you for your consideration.

Sincerely,

Arnold Jablon
AEJ/aj

c: Thomas Nelson

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Hearing Room #2, Second Floor
Jefferson Building, 105 W. Chesapeake Avenue

January 25, 2008

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 07-275-A

IN THE MATTER OF: F & M ENTERPRISES, INC. – Legal Owner /Petitioner 2623 Marine Avenue 15th E; 7th C

3/06/2007 – Z.C.'s Decision in which requested zoning relief was GRANTED with restrictions.
4/04/2007 – Protestant's Motion for Reconsideration DENIED by Z.C.

which was scheduled to be heard on 3/13/08 has been postponed at the request of Counsel for Petitioner due to schedule conflict; and has been

REASSIGNED FOR: **THURSDAY, MAY 1, 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: Appellant /Protestant : Thomas Nelson

Counsel for Petitioner : Arnold Jablon, Esquire
Petitioner : F & M Enterprises
Paul Lee /Civil Engineer

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

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 1, 2008

NOTICE OF DELIBERATION

IN THE MATTER OF:

F & M ENTERPRISES, INC. – Legal Owner
Case No. 07-275-A

Having heard this matter on 5/01/08, public deliberation has been scheduled for the following date /time:

DATE AND TIME : **TUESDAY, JUNE 17, 2008 at 9:00 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, May 30, 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: Appellant /Protestant : Thomas Nelson

Counsel for Petitioner : Arnold Jablon, Esquire
Petitioner : F & M Enterprises
Paul Lee /Civil Engineer

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

Copy to: 3-1-2

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

February 6, 2007

Arnold Jablon
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, MD 21204

Dear Mr. Jablon:

RE: Case Number: 07-275-A, 2623 Marine Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on December 14, 2006.

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

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

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
F&M Enterprises, Inc. Michael J. Narutowicz, II James A. Naruitowicz, Jr. 5200 North Point Blvd Baltimore 21219

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: January 4, 2007

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 7-275- Variance**

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

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

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

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

Prepared By: CJM

Division Chief: Lynn Lanham

MAC/LL

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: January 2, 2007

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

SUBJECT: Zoning Advisory Committee Meeting
For January 1, 2006
Item Nos. 07-266, 268, 270, 271, 272, 273, 274, 275, 277, 278, 279, and 280

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-01022007.doc

Fire Department

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

Baltimore County

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

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

December 21,2006

ATTENTION: Zoning Review Planners

Distribution Meeting Of: December 25, 2006

Item Number(s): 267 trough 269 and 271 through 280
275

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

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: 1-2-2007

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

RE: Baltimore County
Item No. 7-275-A
2623 MARINE AVENUE
F&M ENTERPRISES, INC.
VARIANCE

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. 7-275A.

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

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Timothy M. Kotroco

FROM: Jeff Livingston, DEPRM - Development Coordination JWL

DATE: January 4, 2007

SUBJECT: Zoning Item # 07-275-A
Address 2623 Marine Avenue
(Naurotowicz Property)

Zoning Advisory Committee Meeting of 12/26/06

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

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

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

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

_____ 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: Kevin Brittingham Date: 1/4/07

RE:	PETITION FOR VARIANCE 2623 Marine Ave, E/side Marine Ave, 345' N c/line Sparrows Pt Rd 15th Election & 7th Councilmanic Districts Legal Owner(s): F&M Enterprises, Inc, Michael & James Narutowicz, II Petitioner(s)	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 07-275-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 4th day of January, 2007 a copy of the foregoing Entry of Appearance was mailed Arnold Jablon, Esquire,Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED
JAN 04 2007

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

May 15, 2007

Arnold Jablon
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, MD 21204

Dear Mr. Jablon:

RE: Case: 07-275-A, 2623 Marine Avenue

Please be advised that an appeal of the above-referenced case was filed in this office on May 3, 2007 by Thomas Nelson. 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
Thomas Nelson 2617 North Marine Avenue Baltimore 21219
F & M Enterprises, Inc. Michael J. and James A. Narutowicz 5200 North Point Boulevard Baltimore 21219
Paul Lee 10710 Gilroy Road Hunt Valley 21031

APPEAL

Petition for Variance
2623 Marine Avenue
East side of Marine Avenue, 346 feet north centerline Sparrows Point Road.
15th Election District – 7th Councilmanic District
Legal Owner(s): F & M Enterprises, Inc.

Case No.: 07-275-A

✓ Petition for Variance (December 14, 2006)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (January 8, 2007)

✓ Certification of Publication (February 1, 2007)

✓ Certificate of Posting (February 13, 2007) by

✓ Entry of Appearance by People's Counsel (January 4, 2007)

✓ Petitioner(s) Sign-In Sheet – One sheet

Protestant(s) Sign-In Sheet – None

✓ Citizen(s) Sign-In Sheet – One Sheet

✓ Zoning Advisory Committee Comments

Petitioners' Exhibit

1. ✓ Site plan
2. ✓ Subdivision plat – 1921 Sparrows Point Manor
3. ✓ 05-240-A, Board of Appeals Order
4. ✓ 74-99-A – Petition for Variance
5. ✓ Plat from Baltimore County Topo
6. ✓ Tax map 111 (Layout of neighborhood)
7. ✓ Lots less than 50 feet in Lodge Farm
8. ✓ Plat of Chesapeake Terrace
9. ✓ Plat of Cedar Crest
10. ✓ Plat of Bahle Park
11. ✓ Sparrows Point Manor Subdivision map
12. ✓ Md. State Dept. of Assessment Property Owner #1
13. ✓ Md. State Dept. of Assessment Property Owner #2
14. ✓ Md. State Dept. of Assessment Property Owner #3
15. ✓ Md. State Dept. of Assessment Property Owner #4
16. Md. State Dept. of Assessment Property Owner #5

Protestants' Exhibits:

1. ✓ Testimony presented at prior hearing
2. ✓ Intent of DR – 5.5 zoning regulations
3. ✓ Burden on variances
4. ✓ Plat noting petitioners other property
5. ✓ Prior zoning order 05-239-A and 05-240-A
6. ✓ Sale of adjacent properties

Miscellaneous (Not Marked as Exhibit)

11. ✓ Letter from Arnold Jablon
12. Motion for Reconsideration request from Thomas Nelson
3. Letter from owners

✓ Zoning Commissioner's Order (GRANTED in accordance w/order - March 6, 2007)
✓ Order on the Motion for Reconsideration (DENIED in accordance w/order – April 4, 2007)

✓ Notice of Appeal received on May 3, 2007 from Thomas Nelson

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Thomas Nelson 2617 North Marine Avenue Baltimore 21219
F & M Enterprises, Inc. Michael J. and James A. Narutowicz 5200 North Point Boulevard Baltimore 21219
Paul Lee 10710 Gilroy Road Hunt Valley 21031
Arnold Jablon Venable, Baetjer & Howard 210 Allegheny Avenue Towson 21204

date sent May 15, 2007, amf

CASE #: 07-275-A

IN THE MATTER OF: F & M ENTERPRISES, INC. – Legal Owner /Petitioner 2623 Marine Avenue 15th E; 7th C

VAR – For two variances of 50' ilo required 55' in order to create two building lots on Petitioner's property per § 1B02.3C.1 of BCZR

3/06/2007 – Z.C.'s Decision in which requested zoning relief was GRANTED with restrictions.
4/04/2007 – Protestant's Motion for Reconsideration DENIED by Z.C.

1/02/2008 - Notice of Assignment sent to following; assigned for hearing on Thursday, March 13, 2008 at 10 a.m.:

Thomas Nelson
Arnold Jablon, Esquire
F & M Enterprises
Paul Lee /Civil Engineer
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

1/18/07 – Amended Notice of Assignment sent out this date; to **AMEND CASE NUMBER ONLY** – to read:
07-275-A.

1/25/08 – Letter requesting postponement filed by Arnold Jablon, Esquire, on behalf of Petitioner; Mr. Jablon will be out of town on the assigned hearing date.
-- Notice of PP and Reassignment sent to parties; case reassigned to Thursday, May 1, 2008 at 10:00 a.m.

5/01/08 – Board convened for hearing (Wescott, Murphy, Stahl); concluded hearing this date; memos due 5/30/08; deliberation on 6/17/08 at 9:00 a.m.
-- T/C from Thomas Nelson regarding photographs that were not found in Case No. 05-239-A (had been entered as Protestant's Exhibits in the 05 case before the Deputy Zoning Commissioner). Upon review of the file in 05-239-A, those exhibits were found in a small brown envelope at the back of the case file marked with the case name and number. Advised Mr. Nelson of same; sent a copy of those photographs, along with written copy of notations found on the back of each photo, to Mr. Nelson via letter this date (sent by first class mail – Towson Post Office); also copy to Mr. Jablon.
-- Notice of Deliberation sent this date; deliberation assigned for Tuesday, June 17, 2008 at 9:00 a.m. FYI copy to 3-1-2.

CASE #: 07-275-A

IN THE MATTER OF: F & M ENTERPRISES, INC. – Legal Owner /Petitioner 2623 Marine Avenue 15th E; 7th C

VAR – For two variances of 50' ilo required 55' in order to create two building lots on Petitioner's property per § 1B02.3C.1 of BCZR

3/06/2007 – Z.C.'s Decision in which requested zoning relief was GRANTED with restrictions.
4/04/2007 – Protestant's Motion for Reconsideration DENIED by Z.C.

1/02/2008 - Notice of Assignment sent to following; assigned for hearing on Thursday, March 13, 2008 at 10 a.m.:

Thomas Nelson
Arnold Jablon, Esquire
F & M Enterprises
Paul Lee /Civil Engineer
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

1/18/07 – Amended Notice of Assignment sent out this date; to **AMEND CASE NUMBER ONLY** – to read:
07-275-A.

1/25/08 – Letter requesting postponement filed by Arnold Jablon, Esquire, on behalf of Petitioner; Mr. Jablon will be out of town on the assigned hearing date.
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-- Notice of Deliberation sent this date; deliberation assigned for Tuesday, June 17, 2008 at 9:00 a.m. FYI copy to 3-1-2.

5/27/08 – Entry of Appearance filed by Fred M. Lauer, Esquire, on behalf of Mr. Thomas Nelson, Appellant.

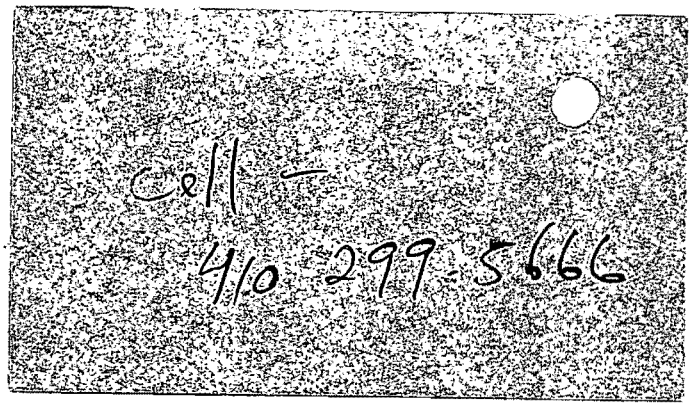
5/29/08 – Memo filed by Mr. Jablon this date. Hold until all memos are filed on due date of 5/30/08. Final with all copies filed 5/30/08.

5/30/08 – Closing Brief by Appellant filed by Thomas Nelson through is attorney, Fred M. Lauer, Esquire.

6/02/08 – Copies of above two memos provided to 3-1-2 (3 and 2 in office 6/03/08; 1 via USPS this date); deliberation assigned for 6/17/08 at 9 a.m.

6/17/08 – Board convened for public deliberation (Wescott, Murphy, Stahl); unanimous decision of Board – requested variance relief was DENIED. Written opinion and order to be issued; appellate period to run from date of written order. (3)

FRED M. LAUER
Attorney At Law
120 E. Baltimore Street, Suite 1808
Baltimore, MD 21202
(410) 547-8356



May 27, 2008

Ms. Kathleen C. Bianco, Administrator
Baltimore County Board of Appeals
Suite 203 Jefferson Building
102 W. Chesapeake Avenue
Towson, Maryland 21202

RE: APPEARANCE – Case No. 07-275-A

Dear Ms. Bianco:

I am hereby entering my appearance in the above captioned case representing Mr. Thomas Nelson, 2617 North Marine Avenue, Baltimore, MD 21219. Mr. Nelson was a protestant before the Zoning Commissioner on this matter and is the appellant before the Board of Appeals.

If there are any questions or you need further information, please give me a call.

Very truly yours,

Fred M. Lauer

Fred M. Lauer

cc: Mr. Thomas Nelson
Mr. Arnold Jablon
Mr. Peter Max Zimmerman

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 1, 2008

Mr. Thomas Nelson
2617 N. Marine Avenue
Baltimore, MD 21219

RE: *In the Matter of: F & M Enterprises, Inc.*
Case No. 07-275-A

Dear Mr. Nelson:

I am writing in response to your telephone call this afternoon in the subject matter and your inquiry regarding photographs that you had entered as exhibits before the Deputy Zoning Commissioner in Case No. 05-239-A.

As indicated to you during the course of our telephone conversation, the photographs about which you inquired were, in fact, included with the file in Case No. 05-239-A, and had been placed in a small brown envelope at the back of that case folder. I have copied those photographs, adding any information that was written on the back of each photo to those copies, and am forwarding them to you as enclosures to this letter.

Should you have any further questions, please call me at 410-887-3180.

Very truly yours,

Kathleen C. Bianco
Administrator

FILE

Enclosures

c: Arnold Jablon, Esquire w/enclosures

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: F & M ENTERPRISES, INC 07-275-A

DATE: June 17, 2008

BOARD/PANEL: Lawrence S. Wescott
Lawrence Stahl
Maureen Murphy

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate an appeal of the following:

1. Petitioner seeks Variance to make 5 properties which are 20 feet wide into 2 properties 50 feet wide.

2. Is the property unique pursuant to the conditions set forth in Cromwell vs. Ward?

3. 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's history and original zoning features do not make the property unique pursuant to the conditions set forth in Cromwell vs. Ward.
- There are other houses in the area which are a similar size on similar properties therefore not unique.
- Petitioner used the argument that the pre-1955 Zoning regulations makes the property unique then asks for a Variance to get around the Zoning regulations. If the County Council wanted to exempt pre-1955 lots from the changes instituted over the years, they would have stated that in the newer Zoning Regulations.
- The circular arguments did not lend themselves to the evidence that the properties are not unique.

DECISION BY BOARD MEMBERS: The property did not fit the conditions of Cromwell vs. Ward for uniqueness.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to DENY Petitioner's request for Variance to change 5 properties, 20 feet wide into 2, 50 feet wide properties.

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

07-275-A

PLEASE PRINT CLEARLY

CASE NAME 2623 MARINE AVE
CASE NUMBER
DATE 2-13-07

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
✓ Michael NARUTOWICZ	1435 Autumn Leaf Rd	Towson MD. 21286	NARUTO@AOL.com.
✓ James A. NARUTOWICZ Sr.	900 E. Seminary Ave	Towson MD. 21286	[redacted]
✓ Paul Lee	10710 Gilroy Rd	Hunt Valley, MD 21031	[redacted]
			[redacted]

PLEASE PRINT CLEARLY

CASE NAME
CASE NUMBER 07-275-A
DATE 2/13/07

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
✓TOM NELSON	2617 N. MARINE AVE.	BALTO. MD. 21219	

PETITIONER'S/
DEVELOPER'S
EXHIBITS

2

2007-0275 A.
supplemental

Case No.: 07-275-A 2623 Marine Ave

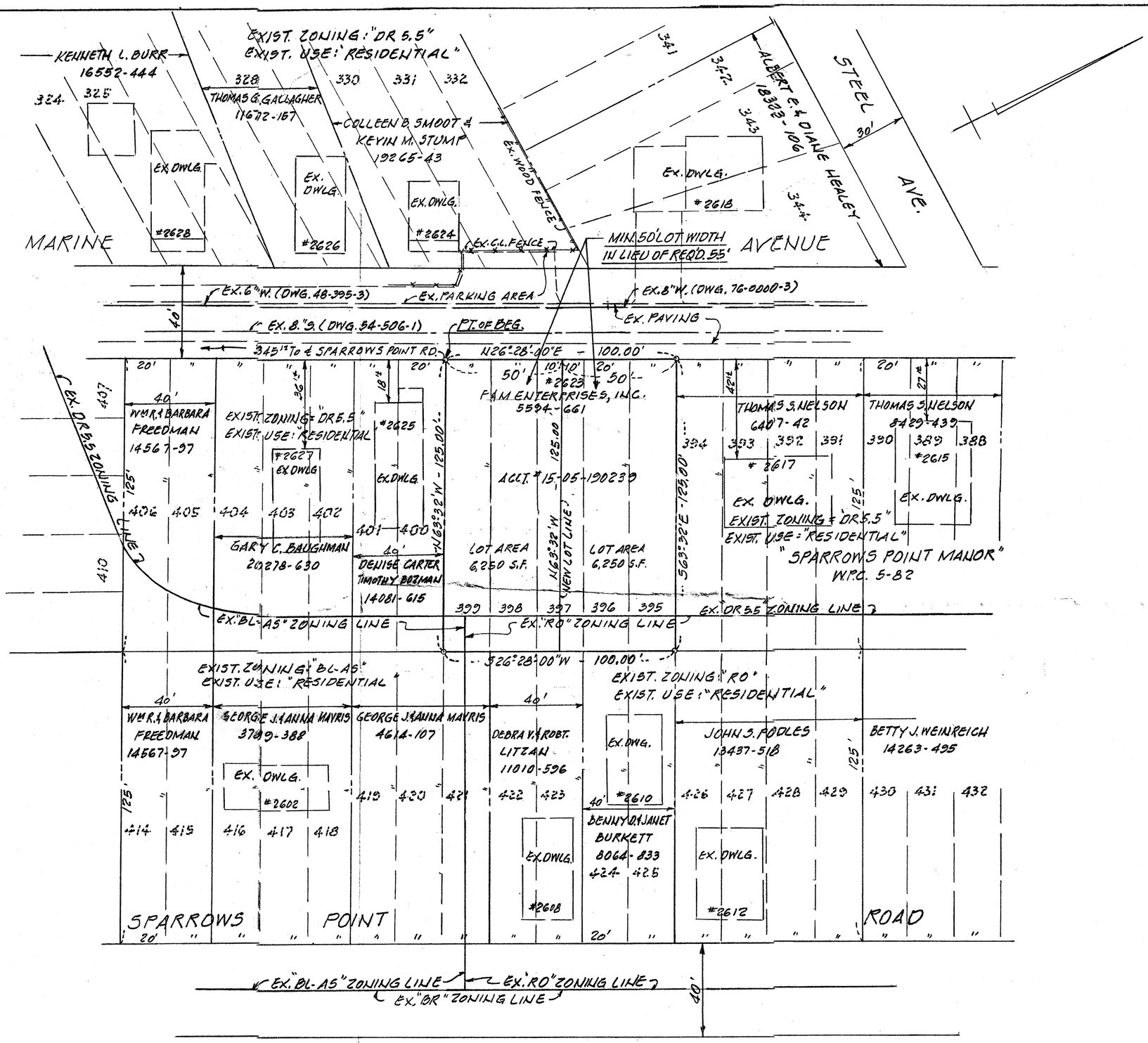
Exhibit Sheet

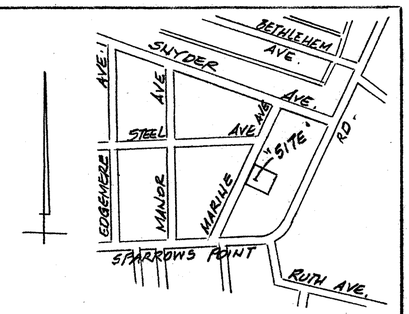
	Petitioner/Developer	Protestant
No. 1	SITE PLAN	TESTIMONY PRESENTED AT PRIOR HEARING
No. 2	SUBDIVISION PLAT - 1921 SPARROWS POINT MANOR	INTENT OF DR 5.5 ZONING REGULATIONS
No. 3	05-240-A BRD OF APPEALS ORDER	BURDEN ON VARIANCES PROVIDED BY ZONING REVIEW OFFICE
No. 4	74-99-A PRIOR VARIANCE 74-99-A	PLAT NOTING PETITIONERS OTHER PROPERTY
No. 5	PLAT FROM BALTO COUNTY TOPO	PRIOR ZONING ORDER 05-239A 05-240A
No. 6	TAX MAP 111 (LAYOUT OF NEIGHBORHOOD)	SALE OF ADJACENT PROPERTIES
No. 7	Lots LESS THAN 50' SHOWN IN RED LODGE FARM CHECKS	
No. 8	Plat of Chesapeake Terrace	
No. 9	Cedar Crest - PLAT	
No. 10	BAHLE PARK - PLAT	
No. 11	MD State Dept. OF ASSESSMENT AND TAXATION →	
No. 12	Md. State Dept of Assessment Property OWNER (#1) - SEE EXHIBIT 11	

Case No.: 07-275A Continued

Exhibit Sheet - Continued

	Petitioner/Developer	Protestant
No. 13	Md Dept of Assessment & TAX #2	
No. 14	Md Dept of Taxes & TAX #3	
No. 15	Md Dept of Assessment & TAX #4	
No. 16	Md Dept of Assessment & TAX #5	
No. 17		
No. 18		
No. 19		
No. 20		
No. 21		
No. 22		
No. 23		
No. 24		





LOCATION PLAN
SCALE: 1" = 500'

GENERAL NOTES

1. AREA OF PROPERTY (LOTS 395-399) = 12,500 S.F. (0.287 A.$^{\pm}$) GROSS = 0.333 A.$^{\pm}$
2. EXISTING ZONING OF PROPERTY = "DR 5.5" (0.253 A.$^{\pm}$), "RO" (0.031 A.$^{\pm}$) & "BL-AS" (0.003 A.$^{\pm}$)
3. EXISTING USE OF PROPERTY = "VACANT"
4. PROPOSED ZONING OF PROPERTY = "DR 5.5", "RO" & "BL-AS"
5. PROPOSED USE OF PROPERTY = "RESIDENTIAL"
6. PROPERTY RECORDED ON PLAT OF "SPARROWS POINT MANOR" IN PLAT BOOK: W.P.C. 5-82
7. TAX ACCOUNT NUMBER = 15-05-190239, DEED = 5594-661 F&M ENTERPRISES, INC. 5-20' LOTS = 100' TOTAL (LOTS 395-399)
8. PROPERTY SERVICED BY PUBLIC WATER AND SEWER
9. OWNER REQUESTING A LIMITED EXEMPTION FOR A LOT LINE ADJUSTMENT TO MOVE THE LOT LINE FOR LOTS 396 AND 397 10' INTO LOT 397 IN ORDER TO CREATE 2 - 50' LOTS ORC # 01-18-015 H
10. PETITIONER REQUESTING A VARIANCE TO SECTION 1.B0.2.3.A5 FOR 2-50' LOTS IN LIEU OF THE REQUIRED 55' (LOT LINE CONSOLIDATION FOR 5-20' LOTS, TOTAL = 100') A VAR. OF 5'
11. PROPERTY IS LOCATED ON BALTO. CO. MAP "SEGH" (#11B2) SCALE: 1" = 200'
12. PROPERTY IS NOT LOCATED IN CRITICAL AREA

PLAT TO ACCOMPANY PETITION
FOR
VARIANCE

*2623 MARINE AVENUE
SPARROWS POINT MANOR-LOTS 395-399

ELECT. DIST. 15C7 BALTIMORE CO., MD.
SCALE: 1" = 30' DEC. 8, 2006

OWNERS: F & M ENTERPRISES, INC.
5200 NORTH POINT BLVD.
BALTIMORE, MD. 21219

PETITIONER'S EXHIBIT 1

ENGINEER: CENTURY ENGINEERING, INC.
32 WEST ROAD
TOWSON, MARYLAND 21204
(410) 823-8070

STATE OF MARYLAND
PAUL LEE
4047
PROFESSIONAL ENGINEER

24-261.00

W.P.C. Nº 5 ~ 82

SPARROWS POINT MANOR

SUBDIVIDED BY

KEATING-REALTY-CO.

12 EAST LEXINGTON ST. BALTO. MD

SURVEY & PLAT BY

— J-SPENCE-HOWARD —

Civil & Consulting Engr. Baltimore Md.

Scale-100'=1inch ~ April, 1921.

Book #134 - File - 424

PETITIONER'S EXHIBIT 2

IN THE MATTER OF THE APPLICATION OF F & M ENTERPRISES, INC. - PETITIONER FOR ZONING VARIANCE ON PROPERTY LOCATED ON THE E/S MARINE AVENUE 346' N C/L SPARROWS POINT ROAD (2623 MARINE AVE, UNDERSIZED LOT 1) AND 445' N C/L SPARROWS POINT ROAD (2623 MARINE AVE, UNDERSIZED LOT 2) 15TH ELECTION DISTRICT 7TH COUNCILMANIC DISTRICT	* BEFORE THE * COUNTY BOARD OF APPEALS * OF * BALTIMORE COUNTY * CASE NO. 05-239-A and CASE NO. 05-240-A *

* * * * * * * * *

OPINION

This matter comes on appeal from a decision of the Deputy Zoning Commissioner (DZC) dated January 26, 2005 in which Petitioner's requests for variance from §§ 1B02.3.1, 303.1 and 304 of the *Baltimore County Zoning Regulations* (B.C.Z.R.) for properties located at 2623 Marine Avenue, Lot 1 and 2, in the southeastern area of Baltimore County, to permit homes to be constructed on each lot with a width of 50 feet in lieu of the required 55 feet and 25-foot front yard setback in lieu of the required front yard average of 30.75 feet, which relief was DENIED. The Board of Appeals for Baltimore County held *de novo* hearings on August 17, 2005 and November 22, 2005, and public deliberation was held on January 5, 2006. The Petitioner, F&M Enterprises Inc., was represented by Arnold Jablon, Esquire. Protestant Thomas Nelson appeared *pro se*.

Facts

In opening statements, Mr. Jablon withdrew Petitioner's request for the setback variance relief. He stated that the Petitioner would comply with the existing setback requirements. As to the remaining request for 50-foot wide lot in lieu of 55 feet, he stated that the "small lot table" under §§

PETITIONER'S EXHIBIT 3

PETITION FOR ZONING VARIANCE
FROM AREA AND HEIGHT REGULATIONS

74-99-A

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, THE EDGEMERE HOLDING CO., legal owner 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 1B02.3C.1 to permit lot widths of fifty feet instead of the required fifty-five feet.

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

Plot plan of two moved dwellings indicates that only 50' is available because of dividing five 20' lots. This allows a maxumum of 50' per dwelling which is 5' short of the zoning requiremer for each house.

See attached description

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

EDGEMERE HOLDING COMPANY
JAMES A. NARUTOWICZ, VICE PRESIDENT

Contract purchaser

Legal Owner

Address

Address 5200 SPARROWS POINT BLVD.
BALTIMORE, MARYLAND 212[illegible]

Petitioner's Attorney

Protestant's Attorney

Address

ORDERED By The Zoning Commissioner of Baltimore County, this 3rd day of [illegible], 197 3, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the [illegible] day of [illegible] 197[illegible], at [illegible] M.

Zoning Commissioner

ORDER RECEIVED FOR FILING

DATE

BY

E/S of Marine Ave. 332.30' N of Sparrows Point Rd.

PETITIONER'S EXHIBIT 4

BETHLEHEM STEEL COMPANY

SUBSTATION

ABANDONED RAILROAD

BOULEVARD

POINT

MARSHALL AVENUE

EDGEMERE AVENUE

SPARROWS POINT

STEEL MANOR

SNYDER AVENUE

NORTH POINT STATE PARK

NORTH AVENUE

MARINE AVENUE

RUTH AVENUE

CHURCH LANE

NORTH LANE

SUBJECT SITE

SPARROWS POINT

WAGNER AVENUE

SCHOOL HOUSE LANE

LAKEVIEW AVENUE

SUBSTATION

MANNING AVENUE

HADAWAY AVENUE

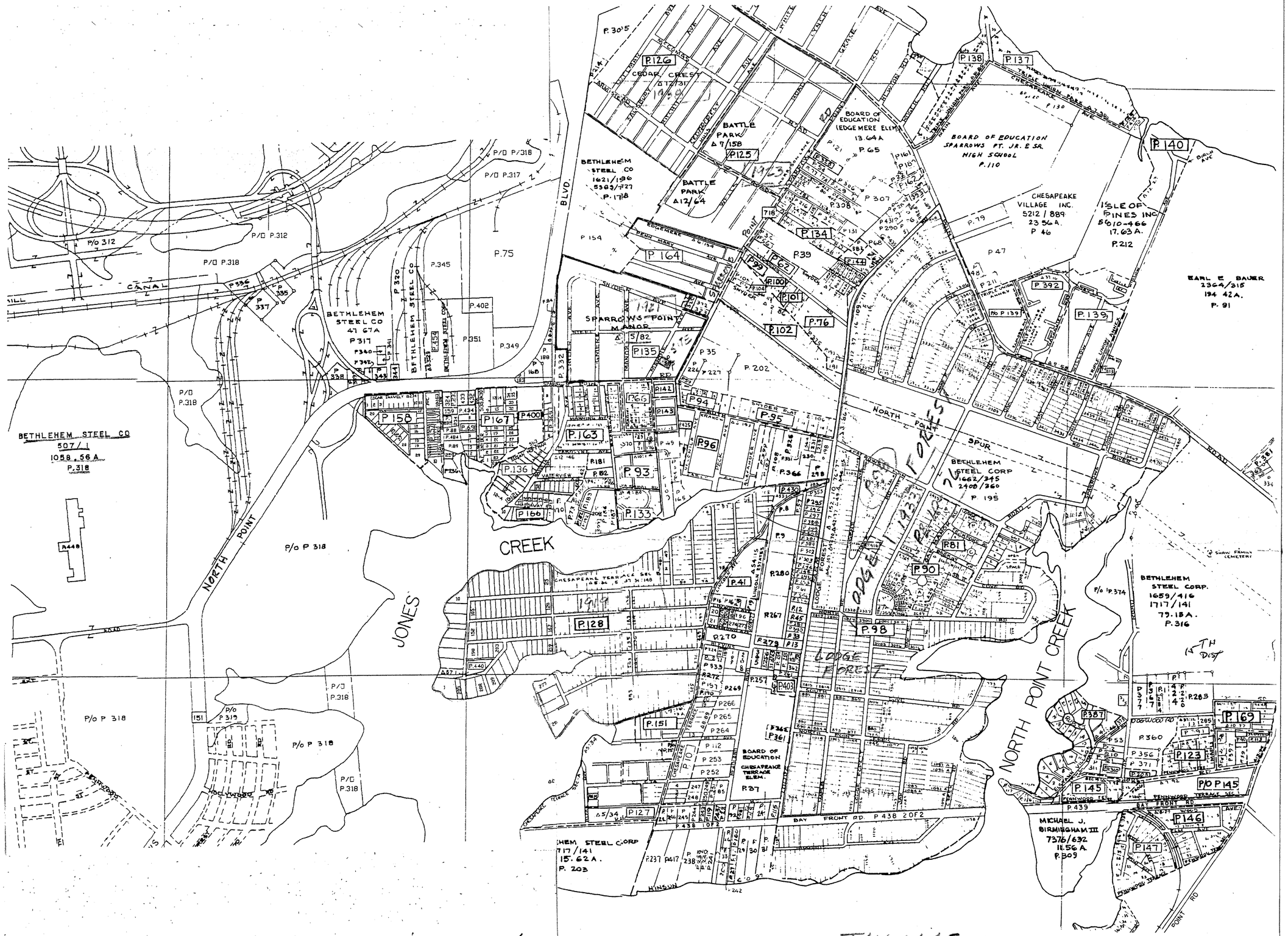
WELSH AVENUE

CAROLYNE AVENUE

MENSER AVENUE

JONES CREEK

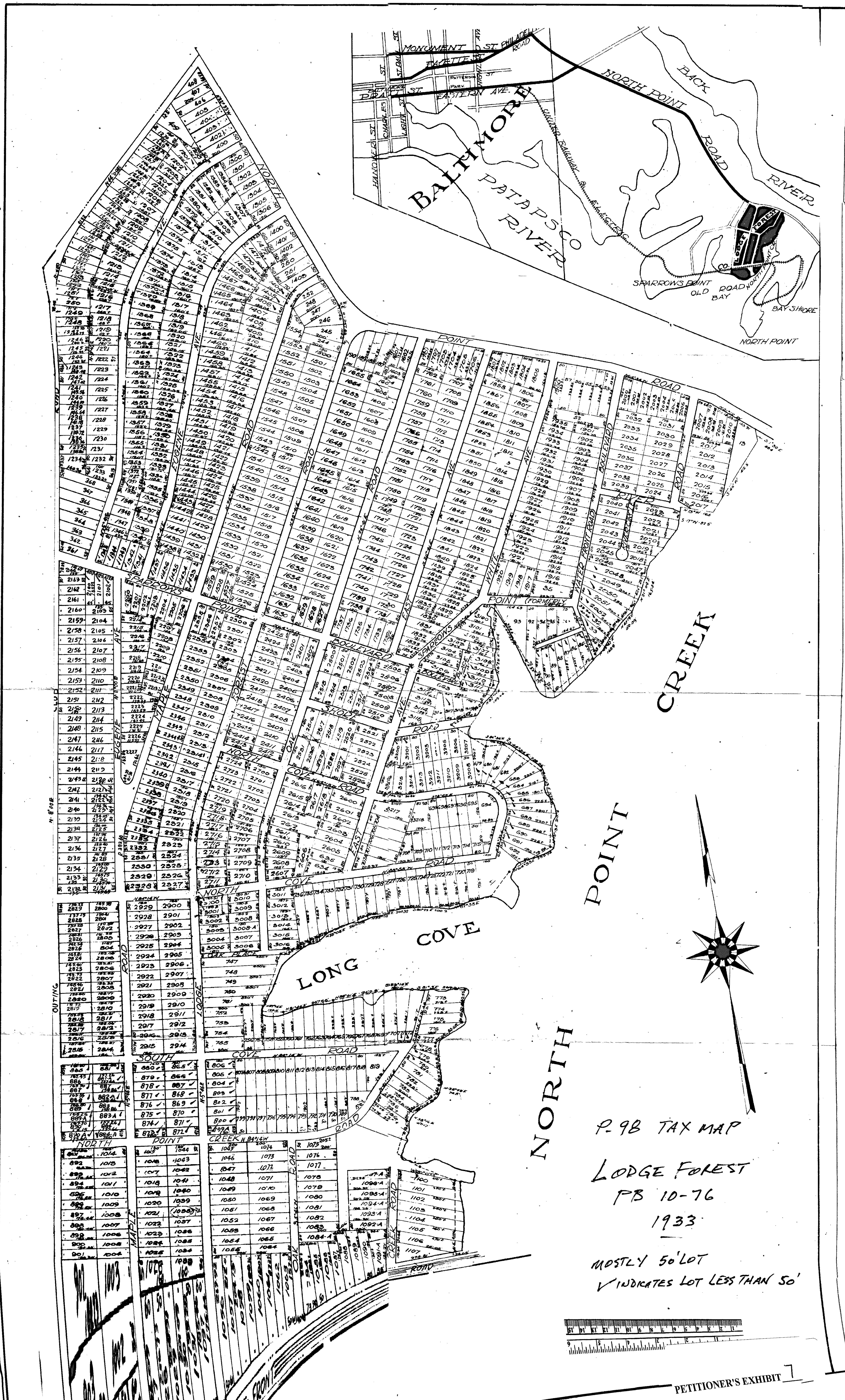
PETITIONER'S EXHIBIT 5



TAX MAP 111

SPARROWS POINT MANOR

PETITIONER'S EXHIBIT 6



PETITIONER'S EXHIBIT 7

N. 40° 52' E. - 1670.75'

RESERVATION 2' WIDE

THE DEPTHS OF THESE LOTS AS INDICATED BY THE FIGURES, EXTENDS TO THE OUTLINE.

DELMAR

AVENUE

ROAD

ALLEY

FIFTEEN FOOT

SALISBURY

RITCHIE

CEDARCREST

ROSS

ARMISTEAD

McCOMAS

POINT

NORTH

N. 56° 10' W. - 1264.20'

P. 126 TAX MAP

191 - 25' LOTS

SECOND REVISED PLAT OF CEDARCREST

SCALE 1" = 100' NOVEMBER 25, 1938

SURVEYED BY Y. COONAN & CO.
SURVEYORS & CIVIL ENGRS.
31 ST. PAUL PLACE
BALTO., MD.

PETITIONER'S EXHIBIT 9

P-128
R-15-17

P-128 TAX MAP

50' LOTS
✓ LESS THAN 50'

Chesapeake Terrace

Section B

Scale 100 feet to one inch.
E. H. Martenet & Co.
Surveyors & Civil Engrs.
Balto. Jan. 22-1919

PETITIONER'S EXHIBIT 8

P. 12.5 TAX MAP

PLAT OF
···BATTLE PARK···

BEING A SUBDIVISION OF
THE SAUCON LAND AND IMPROVEMENT CO.
BALTIMORE CO. - MARYLAND
JANUARY 1923
SCALE - 1 IN. = 80 FT.

LEGEND

Roads, Streets and Lanes are shown on this plat for the purpose of description only, and not for the purpose of dedication.
The boundaries of lots and other parcels of land are shown by full lines, thus ———
The boundaries of streets and other highways are shown by full lines, thus ———
The boundaries of the Andrew Rogers tract shown thus ———

THE SAUCON LAND & IMPROVEMENT CO.

PETITIONER'S EXHIBIT 10

PREPARED BY THE ROLAND PARK CO.
ENGINEERING DEPT.

Chief Engr. R.P.Co.

W.P.C. Nº 5 ~ 82

S 70°54'E - 522.46'

Sassafras Tree

2: Reserved

N-71°10'W

N-71°10'W

Pipe

Pipe

N-70°39'W - 284.5'

SNYDER AVENUE

SNYDER AVENUE

N-1°04'W

N-1°04'W

N-1°04'W - 1007.2

STEEL AVENUE

N 88°56E

AVENUE

MARINE ROAD

N 26°28E

N 26°28E

SUBJECT SITE

EDGEMERE

MANOR

POINT

SPARROWS

N-87°47'E

N-87°47'E 130'

Stake

Post

130'

N-1°04'W-330'

30'

40'

15TH

EXIST. 40'LOTS OF RECORD

1950 EXIST LOTS WITH HOUSE-DATE BUILT

NUMBER OF LOTS 50'WIDTH & LESS

	RESIDENTIAL	COMMERCIAL
40'-	39	5
50'-	2	2
SINGLE LOTS -	2	
	43	7

(1)-(E) REAL ESTATE DATA SHEETS

(2)

SPARROWS POINT MANOR

SUBDIVIDED BY

KEATING-REALTY-CO.

12 EAST LEXINGTON ST. BALTO. MD

SURVEY & PLAT BY

— J-SPENCE-HOWARD —

Civil & Consulting Engr. Baltimore-Md.

Scale - 100' = 1 inch ~ April, 1921.

Book #134 - File - 424'

PETITIONER'S EXHIBIT 1

Click here for a plain text ADA compliant screen.

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District -** 15 **Account Number -** 1503670570

Owner Information

Owner Name:	SPANGLER ROBERT J	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	2400 SPARROWS POINT RD BALTIMORE MD 21219-1712	**Deed Reference:**	1) /12956/ 545 2)

Location & Structure Information

Premises Address
2400 SPARROWS POINT RD

Legal Description
LT 142,143
2400 SPARROWS POINT RD
SPARROWS POINT MANOR

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assesment Area	Plat No:
111	10	135					142	3	Plat Ref: 5/ 82

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1955	646 SF	6,969.00 SF	06

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments As Of 07/01/2004	As Of 07/01/2005
Land:	24,300	35,900		
Improvements:	61,900	104,600		
Total:	86,200	140,500	122,400	140,500
Preferential Land:	0	0	0	0

Transfer Information

Seller:	CRISTY LENA A	**Date:**	06/22/1998	**Price:**	$70,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/12956/ 545	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2004	07/01/2005
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *

PETITIONER'S EXHIBIT 12

(2)

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 15 **Account Number** - 1505190217

Owner Information

Owner Name:	FREEDMAN WILLIAM RIVERS FREEDMAN BARBARA GLAD	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	2512 STEEL AVE BALTIMORE MD 21219-1729	**Deed Reference:**	1) /14567/ 97 2)

Location & Structure Information

Premises Address
MARINE AVE

Legal Description ✓
LT 405,406
SPARROWS POINT MANOR No H

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assesment Area	Plat No:
111	10	135					405	3	Plat Ref: 5/ 82

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		5,000.00 SF	04

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments As Of 07/01/2004	As Of 07/01/2005
Land:	18,750	18,750		
Improvements:	0	0		
Total:	18,750	18,750	18,750	18,750
Preferential Land:	0	0	0	0

Transfer Information

Seller:	F & M ENTERPRISES INC	**Date:**	06/30/2000	**Price:**	$95,000
Type:	MULT ACCTS ARMS-LENGTH	**Deed1:**	/14567/ 97	**Deed2:**	
Seller:	EDGEMERE HOLDING CO	**Date:**	12/19/1975	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/ 5594/ 661	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2004	07/01/2005
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *

PETITIONER'S EXHIBIT 13

Click here for a plain text ADA compliant screen.

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 15 **Account Number** - 1502652931

Owner Information

Owner Name:	HANNIGAN GARY T HANNIGAN KATHERINE A	**Use:**	RESIDENTIAL
		Principal Residence:	YES
Mailing Address:	2624 MANOR AVE BALTIMORE MD 21219-1735	**Deed Reference:**	1) / 6084/ 729 2)

Location & Structure Information

Premises Address
2624 MANOR AVE

Legal Description
LT 243,244
165 N SPARROWS POINT
SPARROWS POINT MANOR

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assesment Area	Plat No:
111	10	135					243	3	Plat Ref: 5/ 82

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1939	624 SF	5,000.00 SF	04

Stories	Basement	Type	Exterior
1	NO	STANDARD UNIT	SIDING

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments As Of 07/01/2004	As Of 07/01/2005
Land:	25,000	25,000		
Improvements:	21,450	27,530		
Total:	46,450	52,530	50,502	52,530
Preferential Land:	0	0	0	0

Transfer Information

Seller:	VERMILLERA ELIZABETH M	**Date:**	10/04/1979	**Price:**	$19,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 6084/ 729	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2004	07/01/2005
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

PETITIONER'S EXHIBIT 14

Click here for a plain text ADA compliant screen.

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District - 15 Account Number - 1518870181** ✓

Owner Information

Owner Name:	F & M ENTERPRISES INC	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	5200 N POINT BLVD BALTIMORE MD 21219-1703	**Deed Reference:**	1) / 5411/ 356 2)

Location & Structure Information

Premises Address
EDGEMERE AVE

Legal Description ✓ lot

357 NW SPARROWS POINT R
SPARROWS POINT MANOR

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assesment Area	Plat No:
111	10	135					166	3	Plat Ref: 5/ 82

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		2,240.00 SF	04

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments As Of 07/01/2004	As Of 07/01/2005
Land:	8,400	8,400		
Improvements:	0	0		
Total:	8,400	8,400	8,400	8,400
Preferential Land:	0	0	0	0

Transfer Information

Seller:	RYCHTAR EDWARD MELVIN	**Date:**	11/28/1973	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/ 5411/ 356	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2004	07/01/2005
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

PETITIONER'S EXHIBIT 15

Click here for a plain text ADA compliant screen.

5

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District - 15 Account Number -** 1519910000

Owner Information

Owner Name:	BMF PROPERTIES LLC	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	5200 N POINT BLVD BALTIMORE MD 21219-1703	**Deed Reference:**	1) /21708/ 422 2)

Location & Structure Information

Premises Address
2612 SNYDER AVE

Legal Description
LT 9-10 PT 11 50'x120'
2612 SNYDER AVE
SPARROWS POINT MANOR

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assesment Area	Plat No:	
111	10	135					9	3	Plat Ref:	5/ 82

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1928	1,128 SF	6,000.00 SF	04

Stories	Basement	Type	Exterior
1	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments As Of 07/01/2004	As Of 07/01/2005
Land:	27,000	27,000		
Improvements:	41,560	42,750		
Total:	68,560	69,750	69,352	69,750
Preferential Land:	0	0	0	0

Transfer Information

Seller:	NARUTOWICZ ANTHONY J	**Date:**	04/13/2005	**Price:**	$60,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/21708/ 422	**Deed2:**	
Seller:	SWEDO ANDREW P	**Date:**	06/10/1986	**Price:**	$52,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 7187/ 491	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2004	07/01/2005
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *

PETITIONER'S EXHIBIT 16

Petitioner's

Accepted 5-01-08

5/1/08 Exhibits 07-275-A

F + M Enterprises

2623 Marine Ave

✓ (1) Site Plan prepared by Paul Lee, PE.

✓ (2) Sparrows Point Manor Plat

✓ (3) Official B. County Zoning Map: 2005 w/highlights

✓ (4) Official B County Zoning Map 2000 /highlights

✓ (5) Planning Office Map.

✓ (6) tax Map 111 Sparrows Point Manor

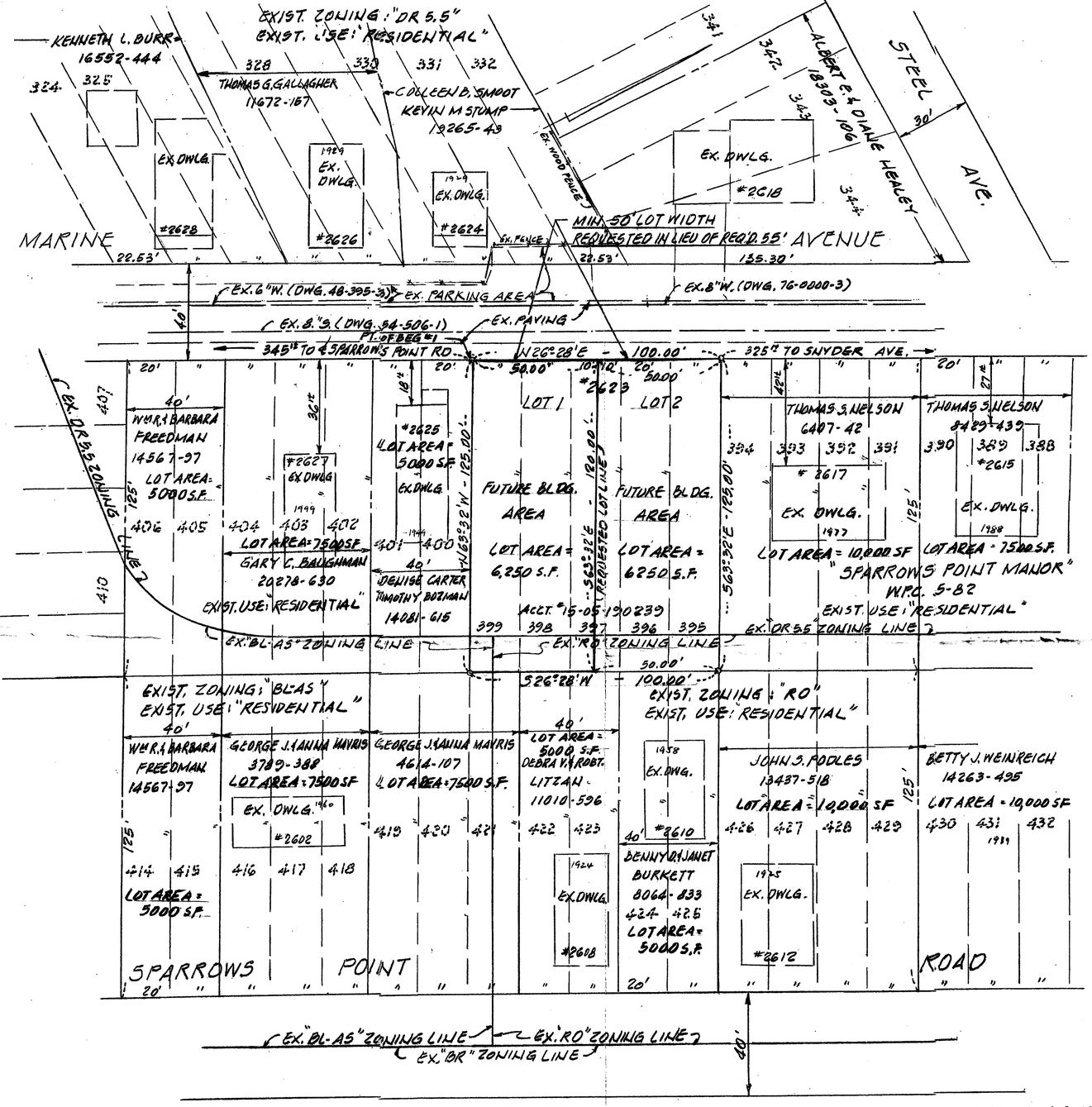
✓ (7) Deed. 7/15/40 Showing Lots 395-399

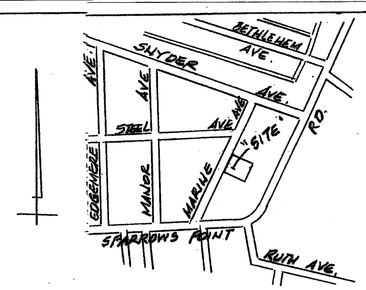
✓ (8) Deed 12/19/75 From Marcotowicz to F+M Enterprises.

✓ (9) Petition for Zoning Variance Eric DiNenna 6/25/74

✓ (10) Prior Zone file - All Exhibits.

✓ (11) 1/4/07 Comment Office Planning





LOCATION PLAN
SCALE: 1" = 500'

GENERAL NOTES:

1. AREA OF PROPERTY = 12500 S.F. (0.287 Ac.)
2. EXISTING ZONING OF PROPERTY = "DR 5.5 & BL-AS", "RO"
3. EXISTING USE OF PROPERTY = "VACANT"
4. PROPOSED ZONING OF PROPERTY = "DR 5.5 & BL-AS" "RO"
5. PROPOSED USE OF PROPERTY = "RESIDENTIAL"
6. PROPERTY RECORDED AS LOTS 395 THRU 399 (5 - 20' LOTS = 100') ON PLAT OF "SPARROWS POINT MANOR" IN PLAT BOOK W.P.C. # 5-82
7. PROPERTY SERVED BY PUBLIC SEWER & WATER
8. OWNER IS REQUESTING A LIMITED EXEMPTION FOR A LOT LINE ADJUSTMENT TO MOVE LOT LINE OF LOT 396 & 397 - 10' INTO LOT 397 TO CREATE 2-50' LOTS. REQUEST BEING SUBMITTED TO THE DRC.
9. PETITIONER REQUESTING A VARIANCE TO SECTION 1B02.3.C.1, OF THE BCZR TO PERMIT A MIN. LOT WITH OF 50' IN LIEU OF THE REQUIRED 55' (A VAR. OF 5').
10. PROPERTY IS LOCATED ON BCMD "SE 6 H", SCALE: 1" = 200'
11. PROPERTY HAS NO ZONING HISTORY
12. PROPERTY ACCT. # 15-05-1190239 - DEED: 5594-661
13. PROPERTY NOT LOCATED IN CRITICAL AREA.

Petitioner's Ex. No. 1

PLAT TO ACCOMPANY PETITION
FOR

VARIANCE

2623 MARINE AVENUE

(LOTS 395 - 399)

ELECT. DIST. 15 C 7 — BALTIMORE CO., MD.

SCALE: 1" = 30' — JULY 15, 2005

OWNER:

F & M ENTERPRISES, INC.
5200 NORTHPOINT BLVD.
BALTIMORE, MD. 21219

ENGINEER: CENTURY ENGINEERING, INC.
32 WEST ROAD
TOWSON, MARYLAND 21204
(410) 823-8070

STATE OF MARYLAND — PAUL LEE — 4047 — PROFESSIONAL ENGINEER

24-261.00

W.P.C. Nº 5 ~ 82

SPARROWS POINT MANOR

SUBDIVIDED BY

KEATING-REALTY-CO.

12 EAST LEXINGTON ST. BALTO. MD

SURVEY & PLAT BY

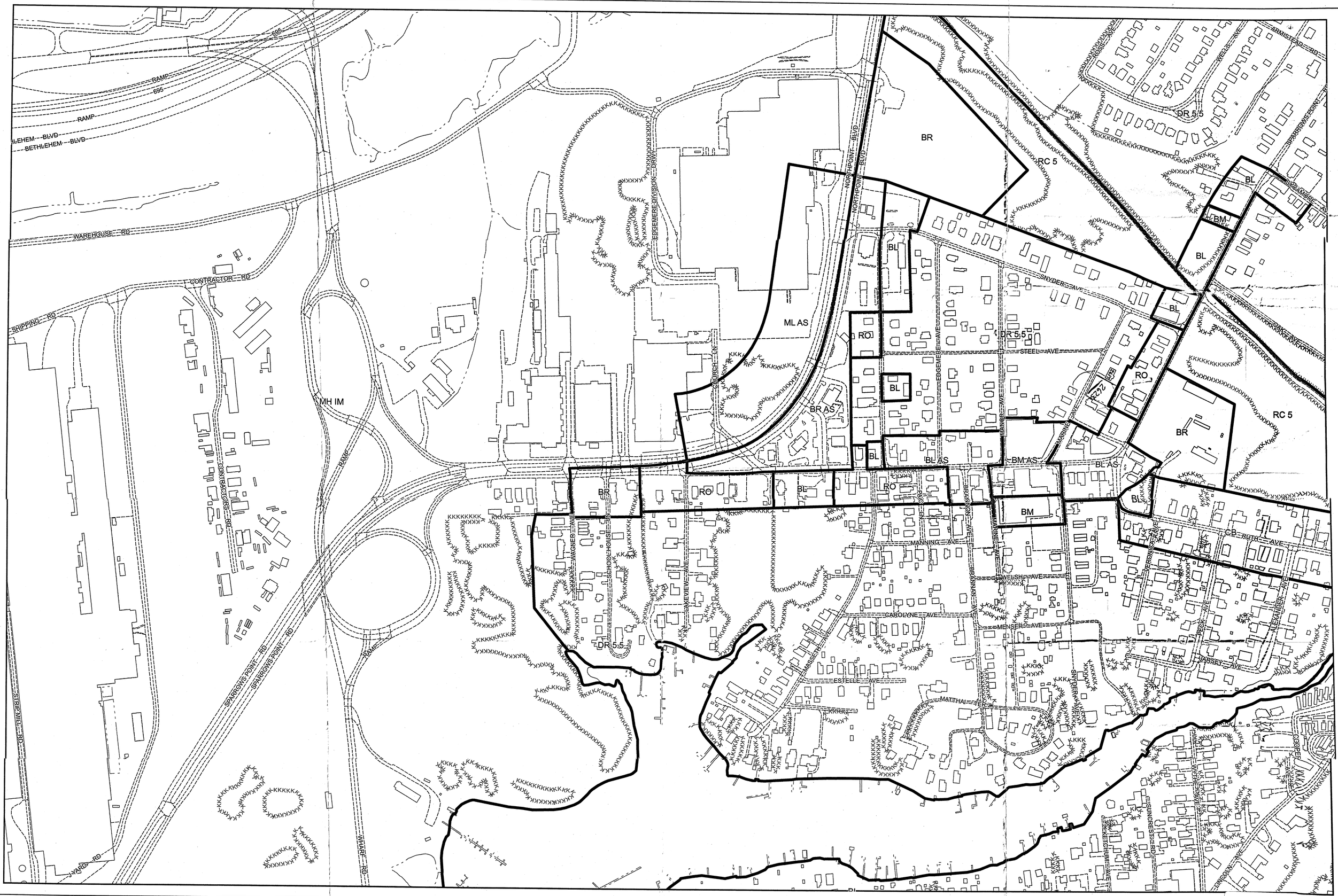
— J-SPENCE-HOWARD —

Civil & Consulting Engr. Baltimore, Md.

Scale-100'=1inch ~ April, 1921.

Book #134 - File - 424

PETITIONER'S EXHIBIT 3



Plan Sheet: *111B2*

Note:
Section 32-3-202 of the Baltimore County, 2003 Code establishes the zoning geodatabase. This map represents the actions of the Baltimore County Council on August 31, 2004 (Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04) effective September 3, 2004.

Legend

Zoning — Streams — Vegetation

Buildings — Roads

Baltimore County
Office of Planning and Zoning
Official Zoning Map

110C1	111A1	111B1	111C1	112A1
110C2	111A2	111B2	111C2	112A2
110C3	111A3	111B3	111C3	112A3

Scale

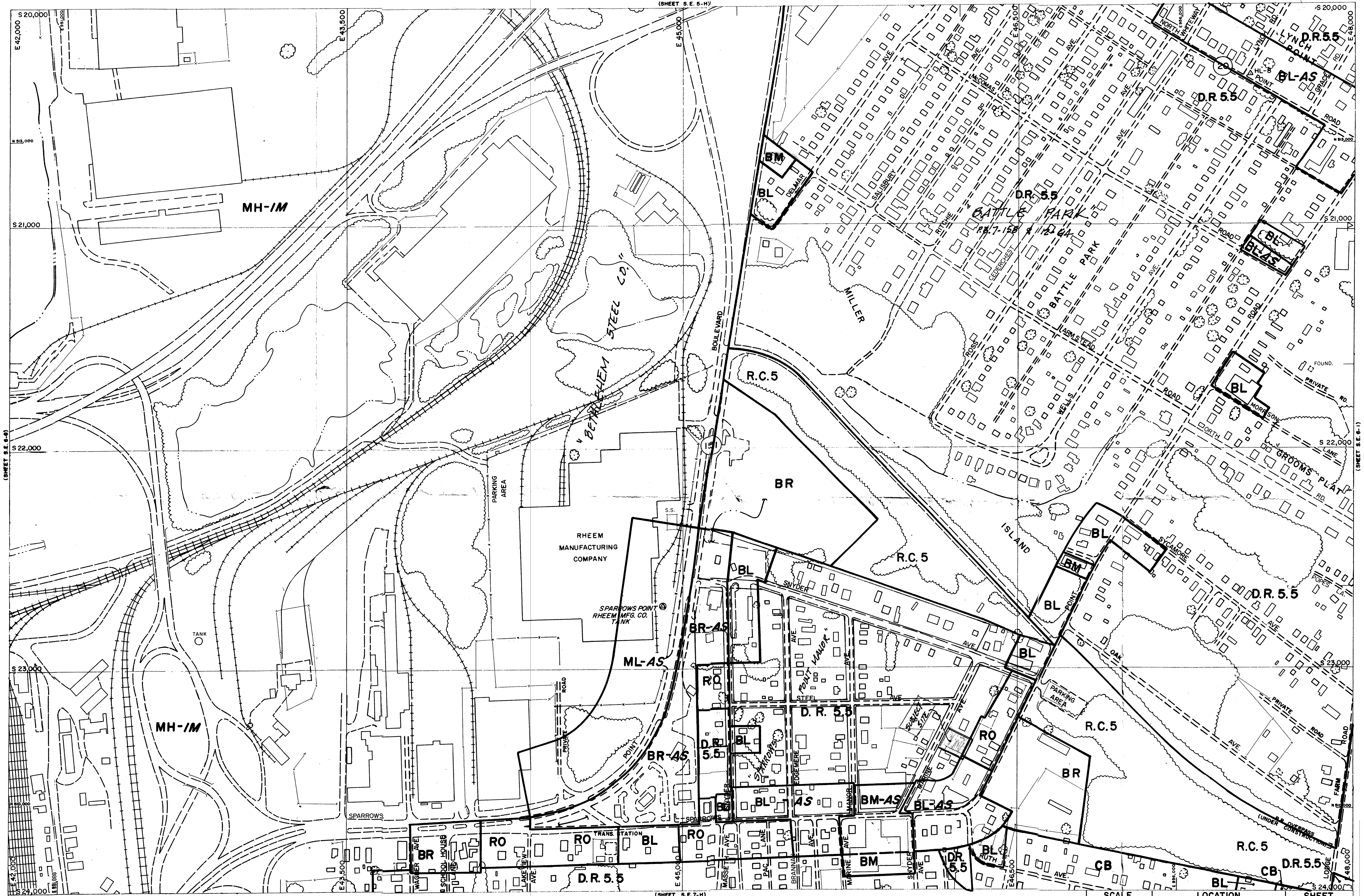
1" = 200'

0 100 200 400 Feet

1

PETITIONER'S EXHIBIT 3

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



E-SW	E-SE
A-NW	A-NE

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00,

Chairman, County Council

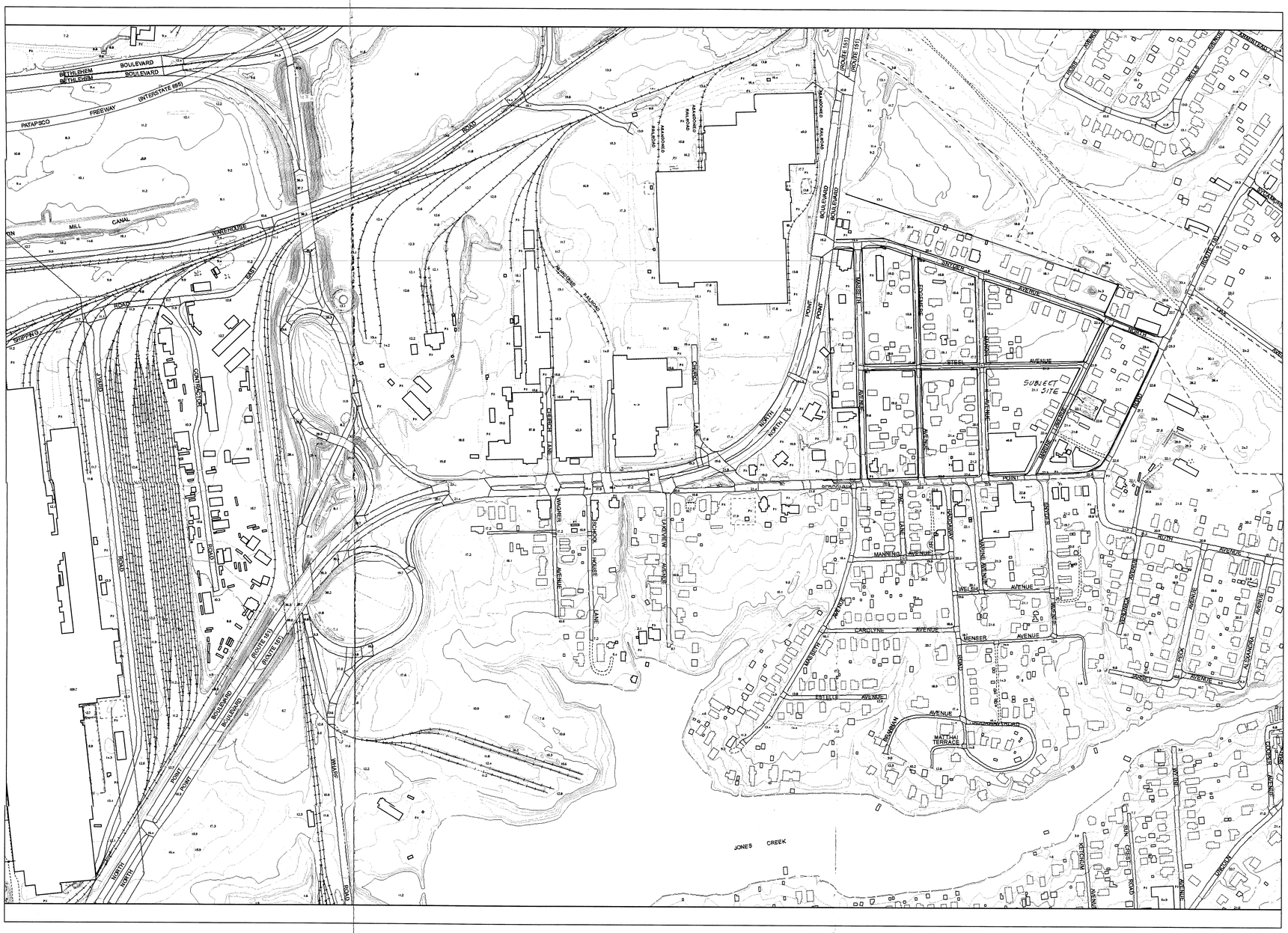
THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	EDGEMERE LODGE FOREST	S.E. 6-H
DATE OF PHOTOGRAPHY JANUARY 1986		

SE 6H

PETITIONER'S EXHIBIT 4



Baltimore County
Maryland

Tile Id: 111B2

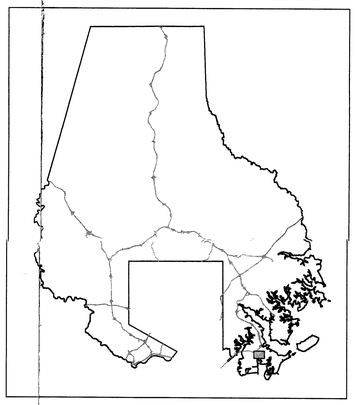
Legend

- Radio Towers
- Transmission Towers
- Microwave Transmitters
- Residential
- Commercial
- Institutional
- Garages and Other Structures
- Buildings Under Construction
- Toll Booths and Rail Stations
- Water Towers and Storage Tanks
- C_line
- Index Contour
- Intermediate Contour
- Index Depression Contour
- Intermediate Depression Contour
- Obscured Index Contour
- Obscured Intermediate Contour
- Obscured Index Depression Contour
- Obscured Intermediate Depression Contour
- Hidden Contour
- Spot Elevation
- Water Elevation
- Bridge Elevation
- Rooftop Elevation
- Junkyard
- Quarries
- Gravel\Sand Pit
- Landfill
- Cemetary
- Area Under Construction
- Power Stations
- Race Tracks
- Commercial Pool
- Golf Courses
- Baseball\Athletic Fields
- Tennis Court
- Park\
- Bike and Hike Areas
- Playground
- Paved Roads
- Curbs
- Hidden Roads
- Unpaved Roads
- Road Under Construction
- Unnamed Roads
- Paved Alleys
- Paved Parking Lots, Driveways, Runways, Taxiways
- Bridges and Overpasses
- Tunnel Portal
- Rail Line
- Hidden Rail Line
- Abandoned Line
- Metro Line
- Light Rail
- Light Rail Under Construction
- Transmission Line
- Pipeline
- Natural Hydrography, Reservoirs, and SW Retention Ponds
- Bay Area
- Boat Ramps, Piers, Dams, and Bulkheads
- Single Line Streams
- Culvert
- Hidden Hydrography
- Wetlands and Swamps
- 2775 - 9999
- Bulkheads
- Floodwall
- Wooded Areas, Orchards and Nurseries
- Tree Rows
- Wetlands, Swamps

0 160 320 640 960 1,280 Feet

1 inch equals 200 feet

Contour Interval: 2'



Map Notes:
Map Production date: Jul 26, 2005
Map compiled using photogrammetric methods from 1" = 200' aerial photography dated 4/2000

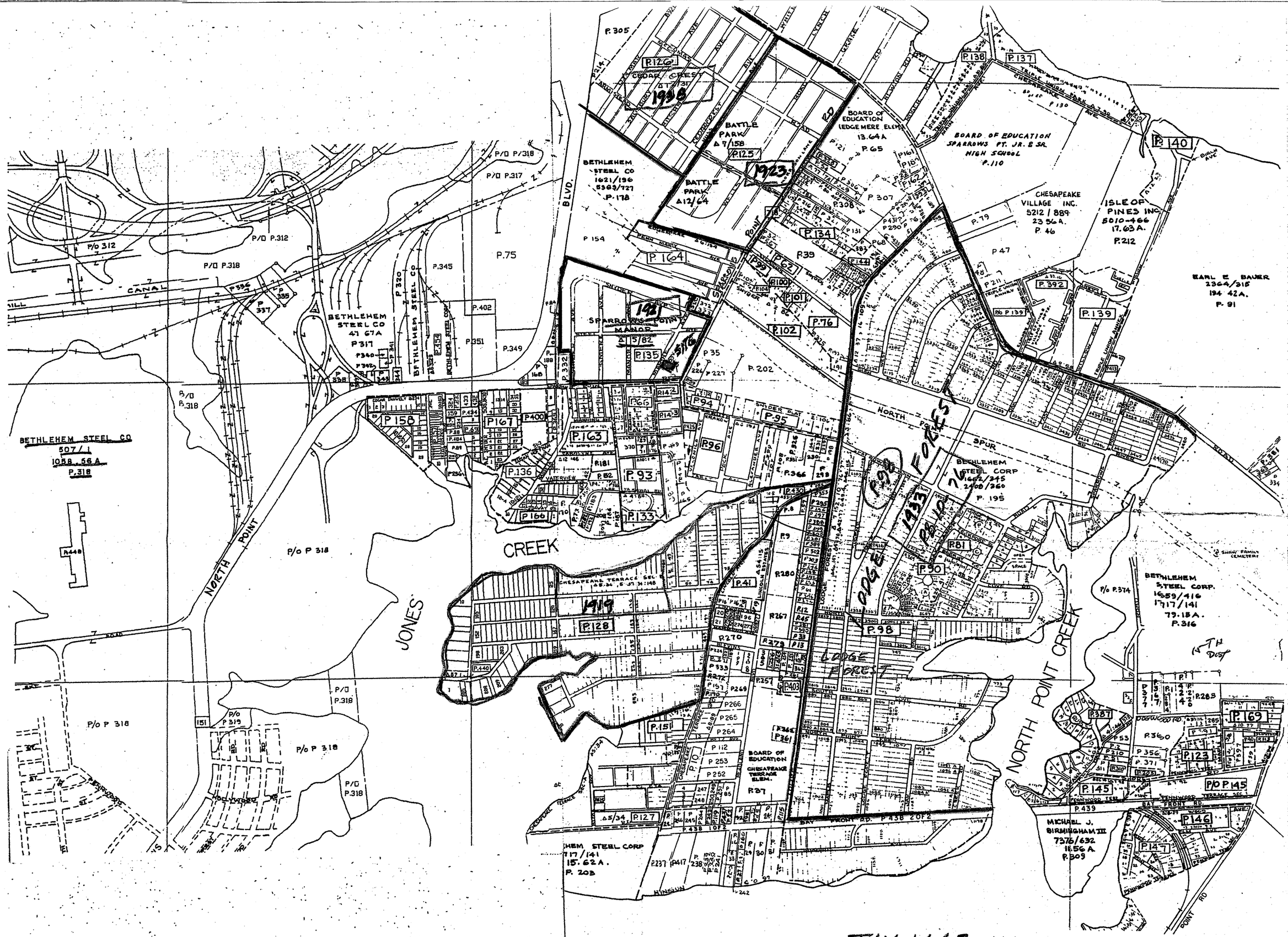
Projection:
Maryland State Plane
Zone ID 1900
NAD 83 US SURVEY FEET

PETITIONER'S EXHIBIT 5

TAX MAP 111

SPARROWS POINT MANOR

PETITIONER'S EXHIBIT 6



PETITIONER'S EXHIBIT 6

Petitioner Ex. (7)

Jul. 1940

154059

Updegraff-Reed Company
Deed to
Michael Narutowicz & wife
U S S $18.50 - S S $18.20

THIS DEED Made this 15th day of July in the year one thousand nine hundred and forty by and between Updegraff-Reed Company a body corporate of the Commonwealth of Pennsylvania of the first part and Michael Narutowicz and Frances Narutowicz his w wife of Baltimore County State of Maryland of the second part

WITNESSETH that in consideration of the sum of Five Dollars and other valuable considerations the receipt of which is hereby acknowledged the said party of the first part does grant and convey unto the said parties of the second part as tenants by the entireties the survivor of them their assigns and the heirs and assigns of the survivor in fee simple all those 186 lots of ground situate lying and being in Baltimore County State of Maryland aforesaid and described as follows that is to say

BEING Lots numbered 19-20-21-22-23-24-25-26-27-28-29-30-31-32-33-34-35-36-37-38-39 45-46-47-48-49-62-63-64-65-66-79-80-81-82-83-84-85-86-87-88-89-90-91-92-93-94-95-96-97-105-106-107-108-111-112-113-114-115-116-117-118119-120-121-122-123-146-147-151-152-153-154-155-156-164-165-174-175-176-177-178-179-180-181-182-198-199-200-201-202-203-204-205-211-212-213-214-228-229-230-240-241-242-248-249-250-267-268-269-270-271-272-273-274-275-276-277-280-284-285-301-302-303-304-307-308-309-331-332-333-334-335-336-337-338-339-340-341-348-349-350-351-354-355-358-359-360-361-362-363-364-365-366-367-368-369-370-371-372-373-374-375-376-377-382-383-384-385-386-387-388-389-390-395-396-397-398-399-402-403-404-421 424-425-430 as shown on Plat of Sparrows Point Manor recorded W P C No 5 folio 82

BEING part of the property more fully described and referred to in deed dated

PETITIONER'S EXHIBIT 7

DEC. 1975 LIBER 5594 FAGE 661 Petitioner's Ex: 8

THIS DEED, Made this 19th day of December in the year one thousand nine hundred and seventy-five, by and between THE EDGEMERE HOLDING COMPANY, Grantor, party of the first part, and F. AND M. ENTERPRISES, INC., Grantee, party of the second part, both being Maryland corporations.

WITNESSETH, That in consideration of the sum of Five Dollars ($5.00) and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said party of the first part does hereby grant and convey unto the said party of the second part, its successors and assigns, in fee simple, all those lots of ground situate, lying and being in the Fifteenth Election District of Baltimore County, State of Maryland, and described as follows; that is to say:

BEING KNOWN AND DESIGNATED as Lots Nos. 174, 175, 176, 177, 178, 179, 180, 181, 203, 204, 205, 211, 212, 213, 214, 333, 334, 335, 336, 337, 338, 339, 340, 341, 345, 346, 347, 348, 349, 350, 351, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 395, 396, 397, 398, 399, 405, 406, 411, 412, 413, 414, and 415, as shown on the Plat of Sparrows Point Manor dated April 1, 1921 and recorded among the Plat Records of Baltimore County in Liber W.P.C. No. 5, folio 82.

BEING the same lots of ground acquired by the Grantor herein by the following deeds recorded among the Land Records of Baltimore County:

1. Deed dated November 2, 1962 recorded in Liber W.J.R. No. 4067, folio 71, by and between Michael J. Narutowicz and Frances Narutowicz, his wife, and The Edgemere Holding Company, Grantor herein.
2. Deed dated June 1, 1953 recorded in Liber G.L.B. No. 2517, folio 536, by and between Michael J. Narutowicz and Frances Narutowicz, his wife, and The Edgemere Holding Company, Grantor herein.
3. Deed dated December 28, 1961 recorded in Liber W.J.R. No. 3940, folio 393 from The North Point Democratic Club Incorporated to The Edgemere Holding Company, Grantor herein.
4. Deed dated October 15, 1965 recorded in Liber O.T.G. No. 4532, folio 562 from Clyde Medlin and Margaret V. Medlin, his wife to The Edgemere Holding Company, Grantor herein.
5. Deed dated June 4, 1966 recorded in Liber O.T.G. No. 4627, folio 318 from Clyde A. Garrison and Zelda Mae Garrison, his wife, to The Edgemere Holding Company, Grantor herein.

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.

PETITIONER'S EXHIBIT 8

Pet (Ex. 9)

PETITION FOR ZONING VARIANCE FROM AREA AND HEIGHT REGULATIONS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY

74-99-A

I, or we, THE EDGEMERE HOLDING CO., legal owner 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 1B02.3C.1 to permit lot widths of fifty feet instead of the required fifty-five feet.

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

Plot plan of two moved dwellings indicates that only 50' is available because of dividing five 20' lots. This allows a maxumum of 50' per dwelling which is 5' short of the zoning requiremen; for each house.

See attached description

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

EDGEMERE HOLDING COMPANY
JAMES A. NARUTOWICZ, VICE PRESIDENT

Contract purchaser

Legal Owner

Address

Address 3200 SPARROWS POINT BLVD.
BALTIMORE, MARYLAND 212[illegible]

Petitioner's Attorney

Protestant's Attorney

Address

ORDERED By The Zoning Commissioner of Baltimore County, this 3rd day of August, 197[illegible], that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the [illegible] day of [illegible] 197[illegible] at [illegible] M.

Zoning Commissioner

ORDER RECEIVED FOR FILING
DATE
BY

E/S of Marine Ave., 322.36' N of Sparrows Point Rd.

PET EXH 9

Petitioner's Ex. 9

Petitioners Ex: 11

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: January 4, 2007

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 7-275- Variance**

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

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

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

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

Prepared By: CJM

Division Chief: Lynn Lanham

MAC/LL

Pet Exh 11

B713609 WF

Rusk Ford

PROTESTANT'S EXHIBITS

20070275 'A'

supplemental

(3)

Case No.: 07-275-A 2623 Marine Ave

Exhibit Sheet

Petitioner/Developer | Protestant

No. 1	SITE PLAN	✓ Testimony Presented At Prior Hearing
No. 2	Subdivision PLAT - 1921 SPARROWS POINT MANOR	✓ INTENT OF DR 5.5 ZONING REGULATIONS
No. 3	05-240-A BRD OF APPEALS ORDER	✓ BURDEN ON VARIANCES PROVIDED BY ZONING REVIEW OFFICE
No. 4	74-99-A PRIOR Variance 74-99-A	✓ PLAT NOTING PETITIONERS OTHER PROPERTY
No. 5	PLAT FROM BALTO County TOPO	✓ PRIOR ZONING ORDER 05-239A 05-240A
No. 6	TAX MAP 111 (LAYOUT OF NEIGHBORHOOD)	✓ SALE OF ADJACENT PROPERTIES
No. 7	Lots LESS THAN 50' SHOWN IN RED LODGE FARM CHECKS	
No. 8	Plat of Chesapeake Terrace	
No. 9	Cedar Crest - PLAT	
No. 10	BAHLE PARK - PLAT	
No. 11 -	MD State Dept. OF ASSESSMENT AND TAXATION →	
No. 12	Md. State Dept of Assessment Property OWNER (#1) - SEE EXHIBIT 11	

PROTESTANT'S

EXHIBIT NO. 1

Re: Petitions for Variance

~~Case Nos. 05-239-A & 05-240-A~~ CASE No.: 07-275-A

Property: 2623 Marine Avenue, Baltimore, Maryland 21219

From Protester: Thomas S. Nelson 2617 Marine Avenue

Baltimore, Maryland 21219 FEBRUARY 13, 2007

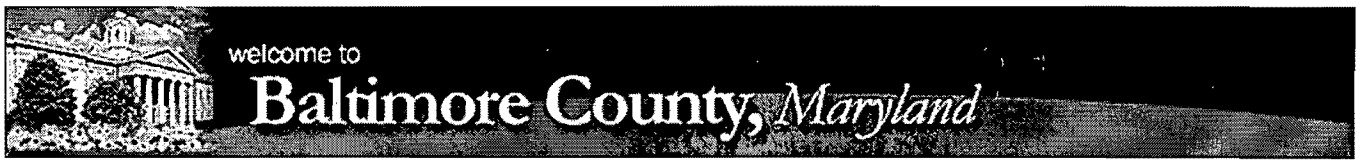
Based on the fact that the order of the Zoning Commissioner, No. 74-99-A Dated June 25, 1974, found that, "strict compliance with the Baltimore County Zoning Regulations would not result in practical difficulty and/or unreasonable hardship upon the Petitioner, and the Variances should NOT BE GRANTED." to this petitioner for these same lots; I purchased the adjacent lots 391, 392, 393, 394 and built my primary residence at 2617 Marine Avenue.

During the hearing for CASES 05-239 & 05-240-A petition for variance, the petitioner's expert witness explained how the drastic reduction in workforce at the local steel plant and surrounding small industries would impact the need for housing in the area. When asked he agreed that such a drastic reduction in the workforce would reduce the need for additional housing in the area. The same expert witness also stated that he could not identify how the property under petition is unique, unusual, and different from the surrounding properties such that the uniqueness causes the zoning provision to impact more on the subject property than on the surrounding properties. He further stated that the petitioners could easily build a mansion on the property but that it would be impractical in this area.

The fact that the petitioner can not comply with zoning regulations in place since 1945, and still construct more than one house on the subject property is the direct result of the applicant's own action. There have been several vacant property sales on both sides of the subject property through the decades since the petitioner purchased this property that would have easily provided enough land for the petitioner to build several houses without the need for variances of any kind. In addition, the petitioner has sufficient lands accross the street to build several houses. (refer to protesters exhibits)

Tom Nelson

02-13-07



Zoning Information for DR 5.5

Zone Description: Density Residential; 5.5 units/acre

Intent: To foster a greater variety of housing types meeeting the needs of different housing market requirements; allow more preservation of natural features and induce the reservation of better open space; to provide greater certainty about dwelling types and densities within existing communities with the goal of conserving and maintaini these areas.

Typical Uses Permitted by Right: Single family, semi-detached, duplex, single family attached, multifamily dwellings.

Typical Uses Permitted by Special Exception: Convalescent homes, community buildings, Class B (up to 40 children) group child care, assisted living facilities (Class B, new or modified building), professional offices in the home (max. 25% of floor area).

For more information see: The Citizen's Guide to Zoning (PDF)

Print Report

Close Window

PROTESTANT'S
EXHIBIT NO. 2

ZONING REVIEW HEARING CHECKLIST

REVISED 08/30/01

This checklist is provided to you, for your information only, and **is not to be considered legal advice**.

First, and most importantly: You must understand that the relief you have requested is a quasi-judicial decision and you are responsible for meeting the burden of law required by the Baltimore County Zoning Regulations (BCZR). A judicial hearing is an adversary process and, therefore, there may be opposition to your request. During a judicial hearing, the parties will be permitted to testify, present evidence, and cross-examine witnesses. Either the Zoning Commissioner or the Deputy Zoning Commissioner will rule on the evidence and testimony to determine whether or not the petition will be granted.

Second: You must understand that if a hearing is required, you are permitted to have representation by an attorney of your choice. You are not required to have an attorney, but it is recommended that you consider obtaining legal representation. But, if you are incorporated, it is considered a requirement that you be represented by an attorney.

Third: It is strongly recommended that you read and understand the requirements of the BCZR.

Fourth: No employee of the Department of Permits and Development Management (PDM) may provide legal advice to anyone. The representations and opinions of any employee are not to be construed as definitive in any case. Only the decision of the Zoning Commissioner/Deputy Zoning Commissioner rendered after the statutory required public hearing is considered dispositive in matters relating to the interpretation of the BCZR.

Even though there may not be opposition in a given case, your request may be denied.

For further information or to make an appointment, please contact:

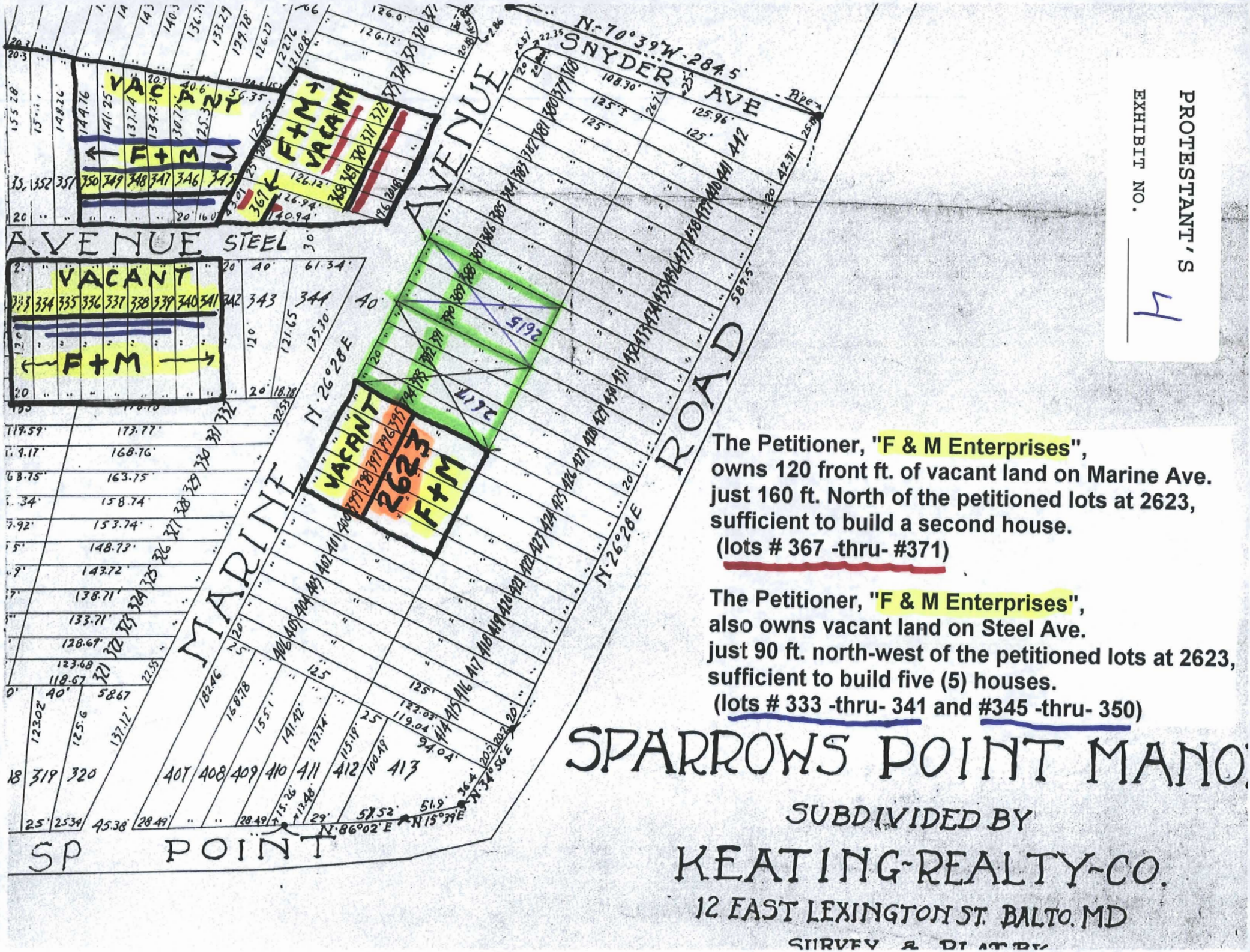
Zoning Review
Department of Permits and Development Management
111 West Chesapeake Avenue
Room 111
Towson, MD 21204
Telephone: 410-887-3391

INDIVIDUAL RESIDENTIAL LOTS

Variances
Administrative Variances
Special Hearings
Posting & Waivers

PROTESTANT'S

EXHIBIT NO. 3


PROTESTANT'S
EXHIBIT NO. 4
N.-70°39'W.-284.5'
SNYDER AVE
AVENUE
MARINE
ROAD
AVENUE STEEL
VACANT
F+M
VACANT
F+M
VACANT
2623
F+M
5192
4192
N.26°28E
N.26°28E
SP POINT
N.86°02'E
N.15°39'E
N.34°56'E
The Petitioner, "F & M Enterprises",
owns 120 front ft. of vacant land on Marine Ave.
just 160 ft. North of the petitioned lots at 2623,
sufficient to build a second house.
(lots # 367 -thru- #371)
The Petitioner, "F & M Enterprises",
also owns vacant land on Steel Ave.
just 90 ft. north-west of the petitioned lots at 2623,
sufficient to build five (5) houses.
(lots # 333 -thru- 341 and #345 -thru- 350)
SPARROWS POINT MANO
SUBDIVIDED BY
KEATING-REALTY-CO.
12 EAST LEXINGTON ST. BALTO. MD
SURVEY & PLAT BY

PROTESTANT'S

EXHIBIT NO. 5

IN RE: PETITION FOR VARIANCE E/S of Marine Avenue, 346 ft. N centerline of Sparrows Point Road (**Lot 1**) and E/S of Marine Avenue, 445 ft. N centerline of Sparrows Point Road (**Lot 2**) 15th Election District 7th Councilmanic District **(2623 Marine Ave., Undersized Lot 1)** **(2623 Marine Ave., Undersized Lot 2)** F & M Enterprises, Inc., by Michael J. Narutowicz, II, *Legal Owner* **and** Paul Lee, Century Engineering, Inc., *Lessees* *Petitioners*	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NOS. 05-239-A & 05-240-A

DENIED

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owners of the subject properties, F & M Enterprises, Inc., by Michael J. Narutowicz, II. The Petitioners are requesting variance relief for properties located at 2623 Marine Avenue, Undersized Lot 1 and Undersized Lot 2 in the southeastern area of Baltimore County. Variance relief is requested from Sections 1B02.3.1, 303.1 and 304 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit each lot to have a minimum lot width of 50 ft. in lieu of the required 55 ft. and 25 ft. front yard setback in lieu of the required front yard average of 30.75 ft. and to approve an undersized lot.

The properties were posted with Notice of Hearing on December 23, 2004, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on December 28, 2004 to notify any interested persons of the scheduled hearing date

PROTESTANT'S

EXHIBIT NO. 6

Re: Petitions for Variance

~~Case Nos. 05-239-A & 05-240-A~~ CASE No.: 07-275-A

Property: 2623 Marine Avenue

From:

Thomas S. Nelson

2617 North Marine Avenue

Baltimore Maryland 21219

~~August 17, 2005~~ FEBRUARY 13, 2007

As the owner of a home adjacent to the petitioned lots with an eighty (80) foot front footage and a forty (40) foot setback I am opposed to the granting of any variance of any kind for the petitioned lots at, 2623 North Marine Avenue.

This petitioner had ample opportunity to comply with zoning codes that have existed since 1945.

Lots numbered: 395, 396, 397, 398, 399 as recorded among the land records of Baltimore County in Liber W.P.C. No. 5 folio 82 were acquired by the petitioner, Mr. Michael Narutowicz (subsequently The Edgemere Holding Company) - (a.k.a. F & M Enterprises) on, July 15, 1940 (Liber 1108 PAGE 583 '~~submitted~~'). Since that time the petitioner has had at least four (4) opportunities to purchase adjoining vacant lots that would have satisfied the zoning regulations in place since 1945.

Adjacent lots to the south of the petitioners property identified as vacant lots No. 400 and 401 were sold to Mr. & Mrs. Fox in 1947 (Liber 1627 PAGE 129 '~~submitted~~').

Adjacent lots to the north of the petitioners property identified as vacant lots No. 391, 392, 393, 394 were sold to Mr. & Mrs. Dematatis in 1966 (Liber 4656 PAGE 256 '~~submitted~~'); then sold vacant to Mr. Holloway in 1973 (Liber 5402 PAGE 754 '~~submitted~~'); then sold vacant to Mr. & Mrs. Nelson in 1974 (Liber 5481 PAGE 579 '~~submitted~~').

This petitioner has bought and sold many parcels within the DR 5.5 area of Liber W.P.C. No. 5 folio 82 and has developed and expand residential and businesses on DR 5.5 lots in this area (liquor store, gasoline station, carwash, Laundromat) since 1945. That F&M Enterprises had knowledge of the existing zoning regulations is also evidenced by their previous attempt to acquire the same variances on these same lots (395-399) before the zoning board in 1973, (Petition for Variances Dated August 3, 1973 : ORDER of the Zoning Commissioner No. 74-99-A Dated June 25, 1974 'DENIED').

Duffie 5-01-8

Protestant Exhibits 07-275-A

F + M

✓ (1) Dep ZC 1/26/2005 Decisia
Case Nos 05-239A
05-240A
(in prior case file)

✓ (2) Sparrows Point Manor Plat highlighted + close up
MPC 582

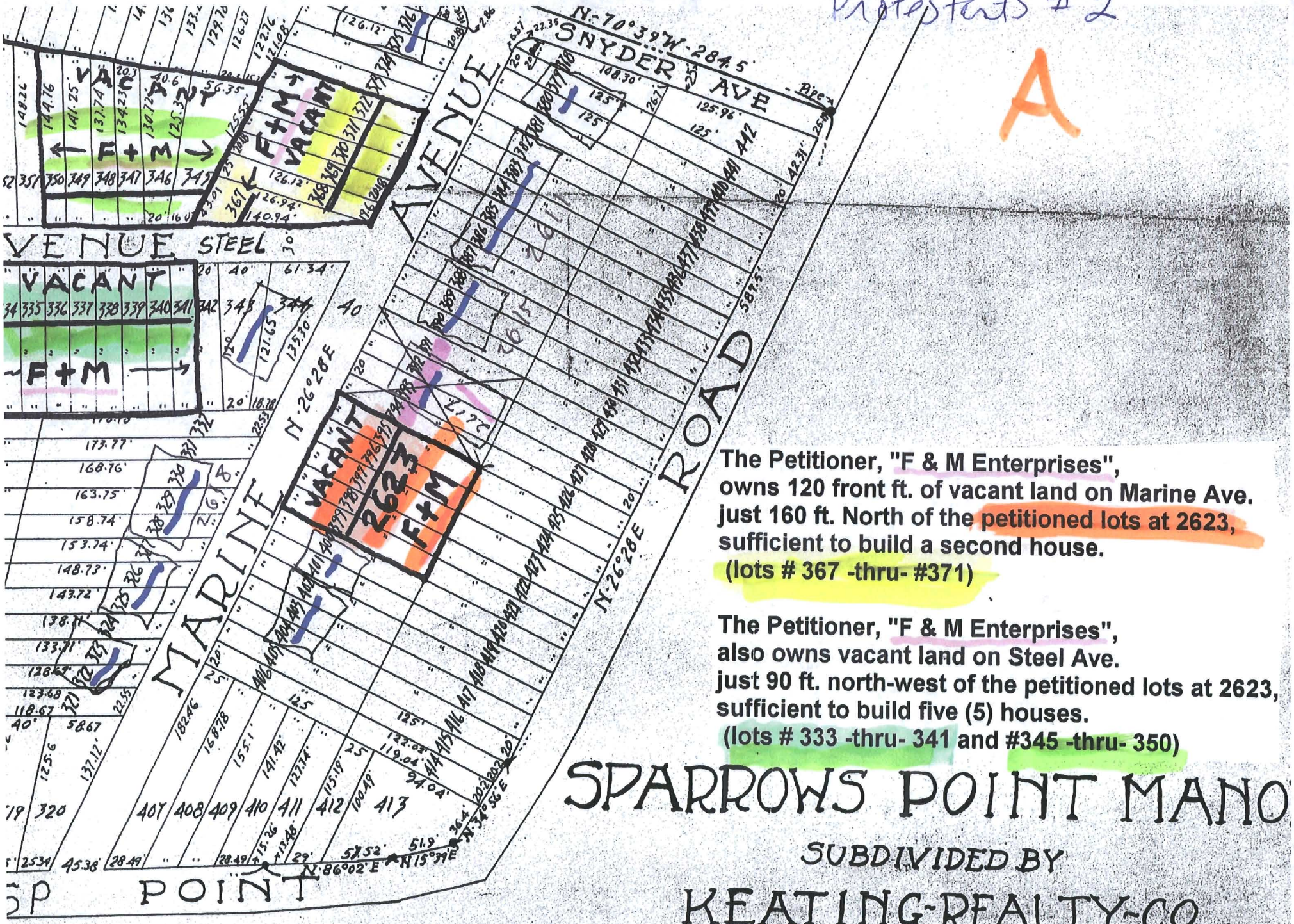
✓ (3) SDAT list of Properties in area

✓ (4) Aerial Photo

✓ (5) Protestant's Statement why he purchased home

Protestants #2

A



The Petitioner, "F & M Enterprises", owns 120 front ft. of vacant land on Marine Ave. just 160 ft. North of the petitioned lots at 2623, sufficient to build a second house. (lots # 367 -thru- #371)

The Petitioner, "F & M Enterprises", also owns vacant land on Steel Ave. just 90 ft. north-west of the petitioned lots at 2623, sufficient to build five (5) houses. (lots # 333 -thru- 341 and #345 -thru- 350)

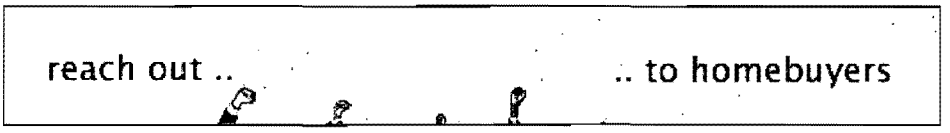
SPARROWS POINT MANO

SUBDIVIDED BY

KEATING-REALTY-CO.

12 EAST LEXINGTON ST. BALTO. MD

Protestant's Ex. 3



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw3.1)

Go Back
View Map
New Search

Page 1 of 1

Name	Account	Street	OWN OCC	Map	Parcel
AKERS RUTH E	15 1700003526	MARINE AVE	N	111	378
EDGEMERE FREE MET	15 1900008806	MARINE AVE	N	111	423
F & M ENTERPRISES	15 1505190201	MARINE AVE	N	111	135
F & M ENTERPRISES	15 1505190202	MARINE AVE	N	111	135
F & M ENTERPRISES	15 1505190205	MARINE AVE	N	111	135
FREEDMAN WILLIAM	15 1505190217	MARINE AVE	N	111	135
GALLAGHER THOMAS	15 1514100711	MARINE AVE	N	111	135
SEARFOSS JOHN WJR	15 1506570382	MARINE AVE	N	111	135
SEARFOSS JOHN WJR	15 1519071501	N MARINE AVE	N	111	135
SMOOT COLLEEN B	15 1515770051	MARINE AVE	N	111	135
JUDD DAVID W	15 1501100010	2503 MARINE AVE	N	111	66
SEARFOSS JOHN WJR	15 1506570380	2509 MARINE AVE	N	111	66
EDGEMERE FREE MET	15 1523154050	2510 MARINE AVE	N	111	58
SEARFOSS JOHN WJR	15 1506572502	2511 MARINE AVE	N	111	66
JACOBS HELEN	15 1519320090	2513 MARINE AVE	N	111	66
EDGEMERE FREE MET	15 1519322070	2518 MARINE AVE	N	111	67
SHKOR JOHN THOMAS	15 1519321732	2519 MARINE AVE	N	111	66
SHKOR JOHN T	15 1519321731	2521 MARINE AVE	N	111	66
WARLICK JOEY NSR	15 1505190237	2601 MARINE AVE	N	111	135
WHITLOCK LAWRENCE	15 1505190238	2611 MARINE AVE	H	111	135
NELSON THOMAS STE	15 1506000860	2615 N MARINE AVE	N	111	135
NELSON THOMAS STE	15 1600014886	2617 N MARINE AVE	H	111	135
HEALEY ALBERT E3R	15 1513201801	2618 N MARINE AVE	H	111	135
F & M ENTERPRISES	15 1505190239	2623 N MARINE AVE	N	111	135
SMOOT COLLEEN B	15 1515770050	2624 N MARINE AVE	H	111	135
CARTER DENISE	15 1506450780	2625 N MARINE AVE	H	111	135
GALLAGHER THOMAS	15 1514100710	2626 N MARINE AVE	H	111	135
BAUGHMAN GARY C	15 1502651080	2627 N MARINE AVE	H	111	135
SEARFOSS JOHN WJR	15 1900002068	2628 N MARINE AVE	N	111	135

36 TOTAL

F+M

Protestant's Ex: 4

Protestant's #5

Petitions for Variance Case Nos. 05-239-A & 05-240-A
Property at: 2623 Marine Ave.

From Protestor: Thomas Nelson 2617 Marine Ave. 21219

Based on the fact that the order of the Zoning Commissioner, No. 74-99-A Dated June 25, 1974, found that, "strict compliance with the Baltimore County Zoning Regulations would not result in practical difficulty and/or unreasonable hardship upon the Petitioner, and the Variances should NOT BE GRANTED." to this petitioner for these same lots; On September 25th 1974, I purchased the adjacent lots 391, 392, 393, 394 and built my primary residence at 2617 Marine Avenue.

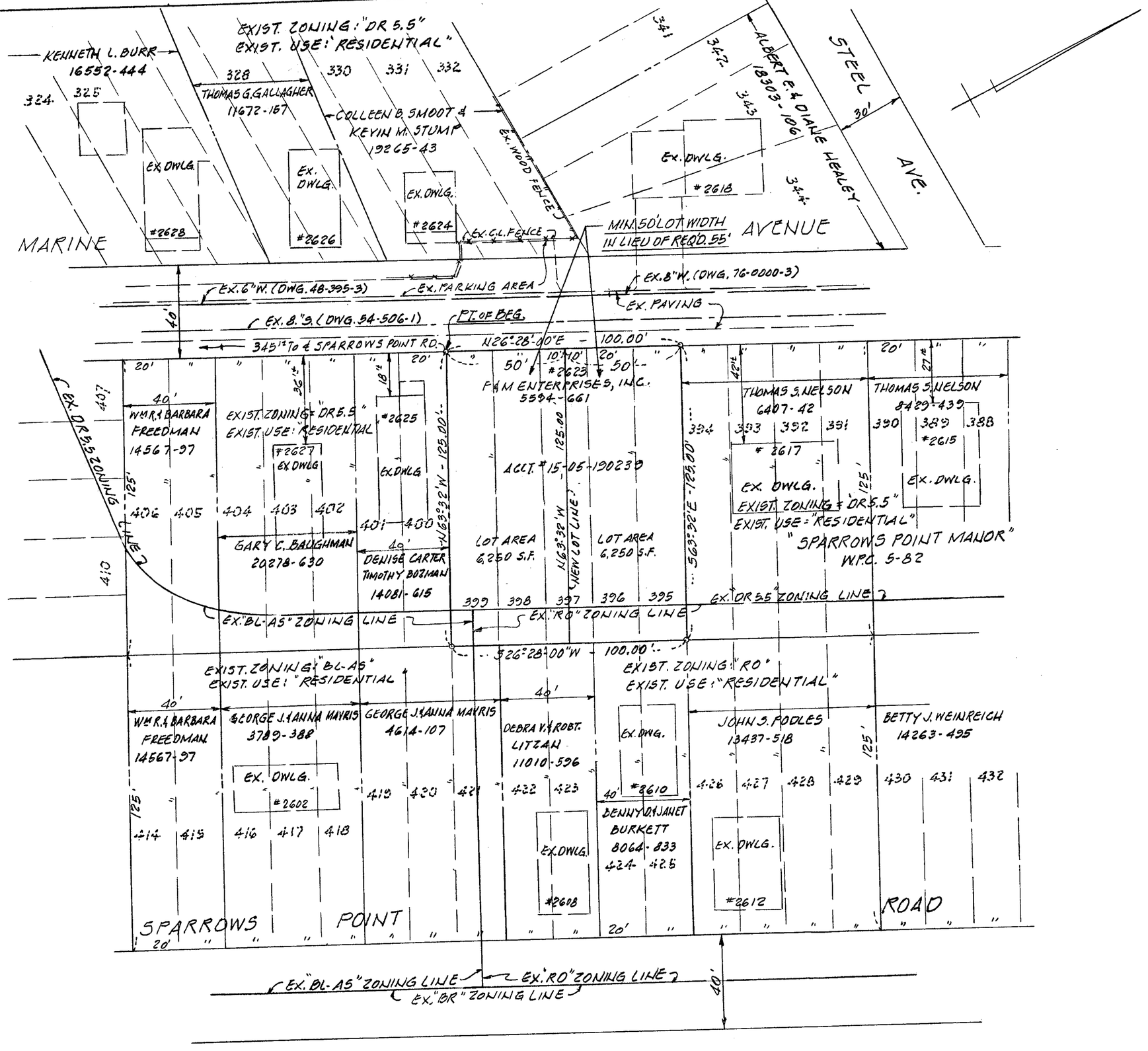
The Petitioner, "F & M Enterprises",
owns 120 front ft. of vacant land on Marine Ave.
just 160 ft. North of the petitioned lots at 2623,
sufficient to build a second house. (lots # 367 -thru- #371)

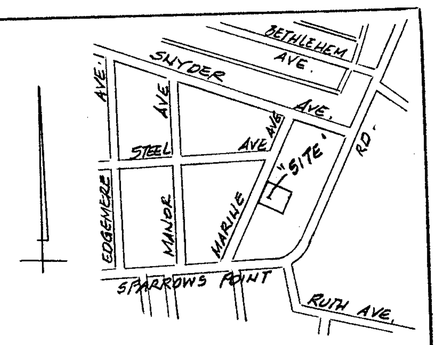
ALL IDENTIFIED BY MR. LEE 'ZONING EXPERT'

The Petitioner, "F & M Enterprises",
also owns vacant land on Steel Ave.
just 90 ft. north-west of the petitioned lots at 2623,
sufficient to build five (5) houses. (lots # 333 -thru- 341 and #345 -thru- 350)

During the hearing for this most recent petition for variance the petitioner's expert witness explained how the drastic reduction in workforce at the local steel plant and surrounding small industries would impact the need for housing in the area. When asked he agreed that such a drastic reduction in the workforce would reduce the need for additional housing in the area. The same expert witness also stated that he could not identify how the property under petition is unique, unusual, and different from the surrounding properties such that the uniqueness causes the zoning provision to impact more on the subject property than on the surrounding properties. He further stated that the petitioners could easily build a mansion on the property but that it would be impractical in this area.

The fact that the petitioner can not comply with zoning regulations in place since 1945, and still construct more than one house on the subject property is the direct result of the applicant's own action. There have been several vacant property sales on both sides of the subject property through the decades since the petitioner purchased this property that would have easily provided enough land for the petitioner to build several houses without the need for variances of any kind. (refer to protesters exhibits)





LOCATION PLAN
SCALE: 1" = 500'

GENERAL NOTES

1. AREA OF PROPERTY (LOTS 395-399) = 12,500 S.F. (0.287 A.±) GROSS = 0.333 A.±
2. EXISTING ZONING OF PROPERTY = "DR 5.5" (0.253 A.±), "RO" (0.031 A.±) "BL-AS" (0.003 A.±)
3. EXISTING USE OF PROPERTY = "VACANT"
4. PROPOSED ZONING OF PROPERTY = "DR 5.5", "RO" & "BL-AS"
5. PROPOSED USE OF PROPERTY = "RESIDENTIAL"
6. PROPERTY RECORDED ON PLAT OF "SPARROWS POINT MANOR" IN PLAT BOOK W.P.C. 5-82
7. TAX ACCOUNT NUMBER = 15-05-190239, DEED: 5594-661
   F & M ENTERPRISES, INC. 5-20' LOTS = 100' TOTAL (LOTS 395-399)
8. PROPERTY SERVED BY PUBLIC WATER AND SEWER
9. OWNER REQUESTING A LIMITED EXEMPTION FOR A LOT LINE ADJUSTMENT TO MOVE THE LOT LINE FOR LOTS 396 AND 397 10' INTO LOT 397 IN ORDER TO CREATE 2 - 50' LOTS ORC # 01-18-05 H
10. PETITIONER REQUESTING A VARIANCE TO SECTION 1.B0.2.3.A5 FOR 2-50' LOTS IN LIEU OF THE REQUIRED 55' (LOT LINE CONSOLIDATION FOR 5-20' LOTS, TOTAL = 100') A VAR. OF 5' EACH
11. PROPERTY IS LOCATED ON BALTO. CO. MAP "SE 6H" (11 82)
    SCALE: 1" = 200'
12. PROPERTY IS NOT LOCATED IN CRITICAL AREA

ITEM 07-275A

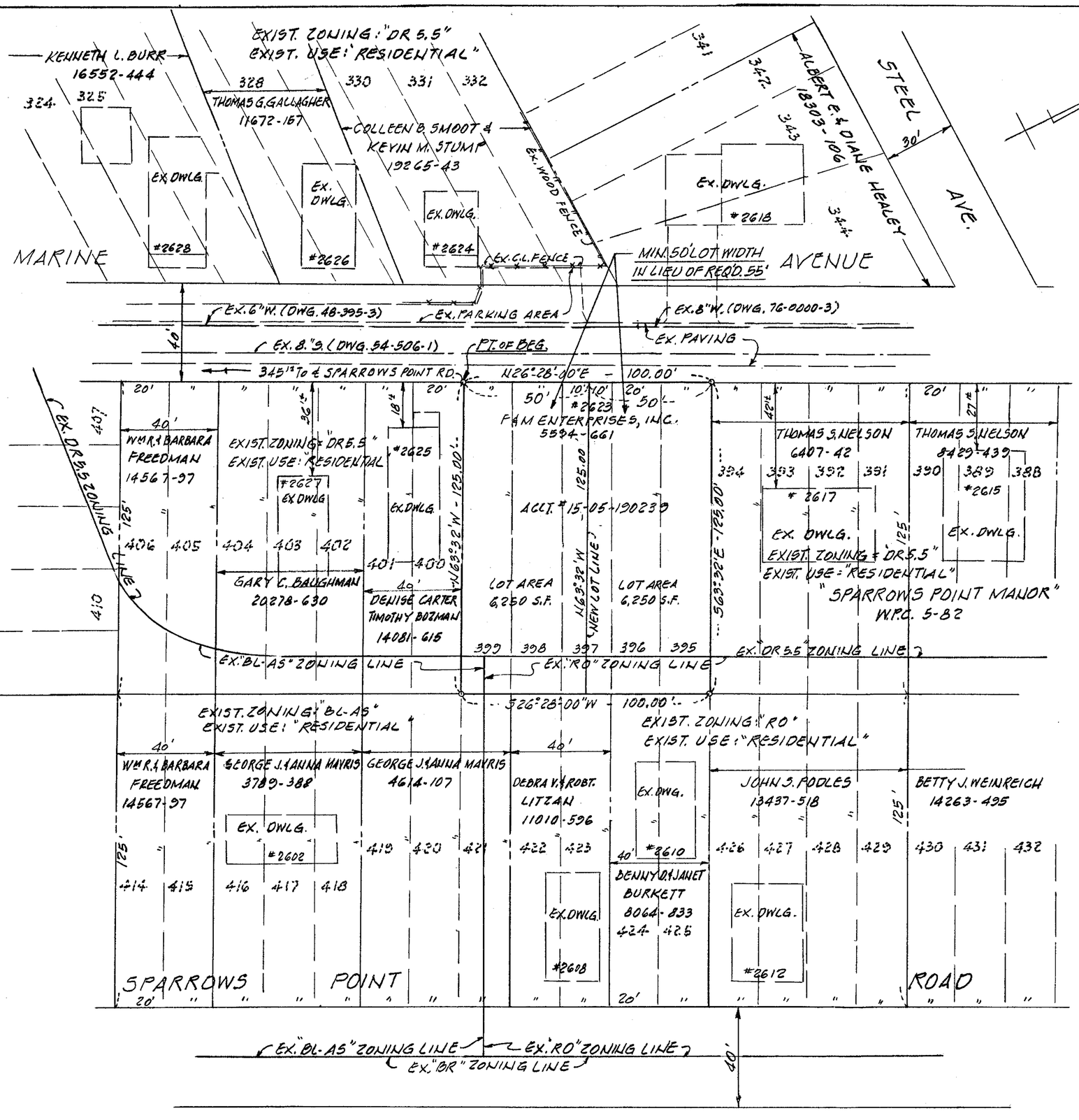
PLAT TO ACCOMPANY PETITION
FOR
VARIANCE
#2623 MARINE AVENUE
SPARROWS POINT MANOR-LOTS 395-399
ELECT. DIST. 15C7 BALTIMORE CO., MD.
SCALE: 1" = 30' DEC. 8, 2006

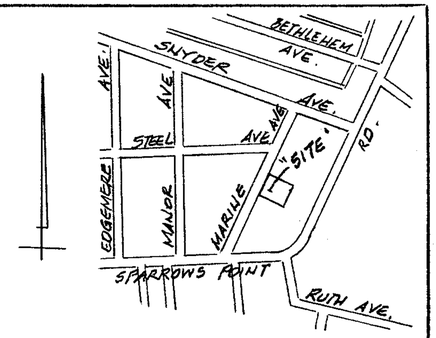
OWNERS:
F & M ENTERPRISES, INC.
5200 NORTHPOINT BLVD.
BALTIMORE, MD. 21219

ENGINEER: CENTURY ENGINEERING, INC.
32 WEST ROAD
TOWSON, MARYLAND 21204
(410) 823-8070

STATE OF MARYLAND
PAUL E. [illegible]
4947
PROFESSIONAL ENGINEER

24-261.00





LOCATION PLAN
SCALE: 1" = 500'

GENERAL NOTES

1. AREA OF PROPERTY (LOTS 395-399) = 12,500 S.F. (0.287 AC±) GROSS = 0.333 AC±
2. EXISTING ZONING OF PROPERTY = "DR 5.5" (0.253 AC±), "RO" (0.031 AC±) "BL-AS" (0.003 AC±)
3. EXISTING USE OF PROPERTY = "VACANT"
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11. PROPERTY IS LOCATED ON BALTO. CO. MAP "5E&H" (11B2) SCALE: 1" = 200'
12. PROPERTY IS NOT LOCATED IN CRITICAL AREA

ITEM 07-275A

PLAT TO ACCOMPANY PETITION
FOR
VARIANCE
2623 MARINE AVENUE
SPARROWS POINT MANOR - LOTS 395-399

ELECT. DIST. 15C7 — BALTIMORE CO., MD.
SCALE: 1" = 30' — DEC. 8, 2006

OWNERS:
F & M ENTERPRISES, INC.
5200 NORTHPOINT BLVD.
BALTIMORE, MD. 21219

ENGINEER: CENTURY ENGINEERING, INC.
32 WEST ROAD
TOWSON, MARYLAND 21204
(410) 823-8070

STATE OF MARYLAND — PAUL LEE — 4947 — PROFESSIONAL ENGINEER

24-261.00