RECEIVED FOR FILING	J-65 -07	CIE
DER	<b>a</b>	:

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
N/S Joppa Road, 1800' W c/line New Gerst Road	*	ZONING COMMISSIONER
(5128 East Joppa Road) 11th Election District	*	OF
5 <sup>th</sup> Council District	*	BALTIMORE COUNTY
David M. Shelton Petitioner	*	Case No. 07-304-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 legal owner of the subject property, David M. Shelton, through his attorney J. Neil Lanzi, Esquire. The Petitioner requests variance relief from Section 259.9.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a minimum lot width of 47 feet in lieu of the required 85 feet and for a minimum side yard setback of 10 feet in lieu of the required 15 feet for the development of a lot of record, in the Honeygo Overlay District, with a single-family dwelling. The subject property and requested relief are more particularly described on the amended site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 2.

Appearing at the requisite public hearing in support of the request were David M. Shelton, property owner, and J. Neil Lanzi, Esquire, attorney for the Petitioner. Also appearing was Bruce Doak, with Gerhold, Cross & Etzel, Ltd., the consultant who prepared the site plan and accepted as an expert in zoning and land planning. There were no Protestants or other interested citizens present.

Testimony and evidence offered disclosed that the subject property is located on the north side of Joppa Road between New Gerst Road and the John F. Kennedy Memorial Highway

(I-95) in White Marsh. The property is referred to as the second lot in the deed for 5128 East Joppa Road (Petitioner's Exhibit 6) and contains a gross area of 10,138 square feet, as shown on Petitioner's Exhibit 2, zoned D.R.3.5H, and is presented unimproved. The Petitioner proposes the residential development of the subject property with a modest cape code or rancher and initiated the development review process earlier this year and although the area requirements were satisfied by the proposed lot line adjustment shown in red on the site plan, was advised by Joe Merrey, Zoning Planner II, to file the above described variance request in order to proceed. In this regard, Mr. Doak submitted extensive testimony and exhibits, including photographs of the property and adjoining properties, an aerial photograph of the neighborhood, and State Department of Assessments and Taxation records confirming the Petitioner's two separate parcels in order to address the uniqueness requirement as provided in Cromwell v. Ward, 102 Md. App. 691 (1995). Mr. Doak opined that the property was unique for several reasons but essentially due to its shape, topography, and existing conditions. He went on to explain the title history of the two lots in question stating that they were created as separate lots in 1947, predating the zoning regulations. The State Department of Assessments and Taxation data sheet confirmed the residence on the Joppa Road lot was constructed in 1943. Without the requested variances, Mr. Doak opined that the second lot, which faces Cunnie Avenue, could not be used for a permitted purpose, i.e., constructing a residence, a permitted use in the D.R.3.5 zone. Mr. Lanzi, in support of the testimony presented by Mr. Doak, cited the cases of North v. St. Mary's County, 99 Md. App. 502 (1994) and McClean v. Soley, 270 Md. App. 208 (1973) for the proposition that a variance may be and should be granted if it is shown that strict application of the regulations would deprive the Petitioner of using his property for a permitted purpose. Moreover, Mr. Shelton, Mr. Doak and Mr. Lanzi point out that they have worked diligently with the Office of Planning on design and location issues for this proposal. These efforts have resulted in the amended site plan (Petitioner's Exhibit 2) which has essentially been approved by the Office of Planning. Anything less than the variances requested would not allow the Petitioner to construct a residence, a permitted use, on a lot of record existing prior to the Baltimore County Zoning Regulations (B.C.Z.R.).

Based on the physical characteristics of the site, I believe that strict compliance with the 85-foot lot width requirement would create a practical difficulty. Petitioner has sought relief that would not do substantial injustice to the other property owners in the locale nor would be outside the spirit of the B.C.Z.R. There were no adverse Zoning Advisory Committee (ZAC) comments and written assurances from Petitioner's Counsel were received that this proposed dwelling and driveway location were discussed with Mr. John Pyle, the most affected owner at 5136 East Joppa Road, and that Mr. Pyle indicated he had no objection to the plans submitted by the Petitioner.

After due consideration of all the testimony and evidence presented, I am persuaded to grant the requested variances in this case. It is clear that the property has existed as a separate lot of record since 1947 and that strict compliance with the zoning regulations would adversely impact the Petitioner. As noted on the aerial photograph submitted as Petitioner's Exhibit 4, most of the houses on this portion of East Joppa Road were built on narrow lots that do not meet the 85-foot Honeygo width requirements and are similar in area and width as the subject property. Additionally, it is clear that there will be no increase in density as a result of the proposed development. Thus, it appears that relief can be granted without detriment to the health, safety and general welfare of the surrounding locale. However, as a condition of approval, Petitioner shall be required to submit proposed architectural elevation drawings to the

ORDER RECEIVED FOR FILIN Date 3 - 15 - 57

Office of Planning prior to the issuance of any building permits to assure compatibility with the surrounding neighborhood.

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

- 1. <u>ADVISORY:</u> This Order approves the requested area variances, but does not address the lot line adjustment process (DRC No. 0102075).
- 2. Prior to the issuance of any permits, the Petitioner shall submit architectural elevation drawings to the Office of Planning for review and approval to insure the proposed design is compatible with existing dwellings and the Honeygo Overlay district design standards of the B.C.Z.R., Sections 259.C.3 through 259.9.C.7.
- 3. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, the Petitioner is hereby made aware that proceeding at this time is at his 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.
- 4. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

WJW:dlw

WILLIAM J. WISEMAN, WI

Zoning Commissioner for Baltimore County



JAMES T. SMITH, JR. County Executive

WILLIAM J. WISEMAN III

Zoning Commissioner

March 15, 2006

J. Neil Lanzi, Esquire Mercantile Building, Suite 617 409 Washington Avenue Towson, MD 21204

RE: PETITION FOR VARIANCE

New Gerst Road

(5128 East Joppa Road)

11<sup>th</sup> Election District - 5<sup>th</sup> Council District

David M. Shelton - Petitioner

Case No. 07-304-A

Dear Mr. Lanzi:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted with conditions, 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.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

Very truly yours

WJW:dlw

c: Mr. David M. Shelton, 2007 Clipper Park Drive, Unit 215
Baltimore, Maryland 21211
Mr. Bruce Doak, Gerhold, Cross & Etzel, Ltd.,
320 E. Towsontown Blvd., Towson, Md. 21286
Office of Planning; People's Counsel; Case File

DAVID SHELTON/PETITIONER RE: 5128 East Joppa Road Tax Account 1116016701

- BEFORE THE
- ZONING COMMISSIONER \*
- \* **FOR**
- **BALTIMORE COUNTY** \*
- \* Case No. 07-304-A

#### MEMORANDUM IN SUPPORT OF ZONING VARIANCES

David Shelton, Petitioner, by J. Neil Lanzi and J. Neil Lanzi, P.A., his attorney, hereby submits the following in support of the Petition for Variances requested in this case.

The subject property known as the second lot in the deed for 5128 East Joppa Road, Tax Account No. 1116016700, consists of approximately 10,138 square feet as shown on Petitioner's amended site plan entered as Exhibit 2. In order to comply with the uniqueness requirement of the property as provided in Cromwell v. Ward, 102 Md. App. 691 (1995), Petitioner submitted extensive expert testimony and exhibits, including photographs of the property and adjoining properties, an aerial photograph of the neighborhood, State Department of Assessments Taxation record confirming the two separate parcels owned by Mr. Shelton and the deed describing the two parcels discussed at the hearing. Petitioner's expert, Bruce Doak of Gerhold, Cross & Etzel opined the property was unique for several reasons, including the shape, topography, historical significance and existing conditions.

Mr. Doak also discussed the title history of the two lots in question, stating the two lots were created as separate lots in 1947, predating the zoning regulations. Petitioner's Exhibit 5 from the State Department of Assessments and Taxation confirmed the residence on the Joppa Road lot was constructed in 1943. Petitioner's expert summarized the argument by stating that without the requested variances for Petitioner's second lot which faces Cunnie Lane, Petitioner

would not be able to construct a residence, a permitted use in the DR 3.5 zone. Two leading Maryland land use decisions state that a variance may be granted if it is shown that strict application of the regulations would deprive the Petitioner of using his property for a permitted purpose. See North v. St. Mary's County, 99 Md. App. 502 (1994) and McClean v. Soley, 270 Md. App. 208 (1973).

2. Petitioner, through his surveyor and counsel worked diligently with the Office of Planning on design and location issues for this project. Petitioner offered the resulting amended site plan as Petitioner's Exhibit 2 which site plan was approved by the Office of Planning.

In conclusion, Petitioner states that anything less than the variances requested would not allow the Petitioner to construct a new residence, a permitted use, on a property existing prior to the Baltimore County Zoning Regulations.

WHEREFORE, your Petitioner respectfully requests the variance relief be granted.

J. NEIL LANZI

Counsel for the Petitioner

409 Washington Avenue, Suite 617

Towson, Maryland 21204

(410) 296-0686

#### J. NEIL LANZI, P.A.

ATTORNEY AT LAW MERCANTILE BUILDING, SUITE 617 **409 WASHINGTON AVENUE** TOWSON, MARYLAND 21204

(410) 296-0686

FAX: (410) 296-0689

E-Mail: lanzilaw@cs.com

Suite 420, Parkside Bldg 10500 Little Patuxent Parkway Columbia, Maryland 21044-3563

Reply to Towson

**COLUMBIA** 

J. Neil Lanzi

OF COUNSEL Fred L. Coover\*

\*Also Admitted in District of Columbia

March 13, 2007

William J. Wiseman, III Baltimore County Zoning Commissioner County Courts Building, Ste 405 401 Bosley Avenue Towson, MD 21204

Re:

Case No. 07-304-A 5128 East Joppa Road David Shelton, Petitioner

Dear Mr. Wiseman:

As requested, I am enclosing written argument in support of the variances requested in the above referenced case. Please also be advised that Petitioner had discussions with Mr. John Pyle, owner of 5136 East Joppa Road regarding the proposed dwelling and driveway. Mr. Shelton advised me that not only did Mr. Pyle indicate he observed the posted zoning sign, he has no objection to the plans of David Shelton.

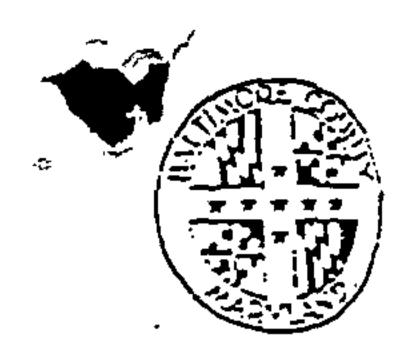
Thank you for your consideration.

J. Neil Lanzi

JNL\mal

cc: David Shelton

Bruce Doak



227 9/15/98

### Petition for Variance

#### to the Zoning Commissioner of Baltimore County

for the property located at 5128 E. Jop? A RD
which is presently zoned DR 3.5 H

UNAVAILABLE FOR HEARING

Reviewed By \_

Date

This Patition shall be filed with the Department of Permits and Development Management. The undersigned, legs: cwner(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 patition for a Variance from Section(s)

SEE ATTACHED

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

ORDER RECEIVED FOR FILING

Date.

By\_

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

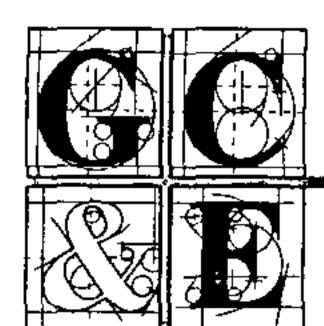
I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning

regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County. IWe do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Contract Purchaser/Lessee: Legal Owner(s): SHELTOH DAYID Name - Type or Pnnt Name - Type or Priper Signature Signature Address Telephone No. Name - Type or Print City Zip Code State Signature Attorney For Petitioner: 2007 CLIPPER PARK Telephone Na. Address UNIT 215 BALTIMORE 21211 Name - Type or Pmt Zio Coca State Representative to be Contacted: Signature BRUCE DOAK Company Name 320 E. TOWSONTOWN BLVD Telephone No. Adcress Telephone No. Address 823-4470 TOWSON MD City Zip Ceca State Zip Code State OFFICE USE ONLY ESTIMATED LENGTH OF HEARING Case No. 07-304-

#### VARIANCES REQUESTED 5128 EAST JOPPA ROAD

FOR A MINIMUM LOT WIDTH OF 47' IN LIEU OF THE REQUIRED 85' PER SECTION 259.9.B.3 OF THE B.C.Z.R.

FOR A MINIMUM SIDE YARD SETBACK OF 10' IN LIEU OF THE REQUIRED 15' PER SECTION 259.9.B.3 OF THE B.C.Z.R.



Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286 Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

December 7,2006

## ZONING DESCRIPTION SHELTON PROPERTY 5128 East Joppa Road Baltimore County, Maryland

All that piece or parcel of land situate, lying and being in the Eleventh Election District, Fifth Councilmanic District of Baltimore County, Maryland and described as follows to wit:

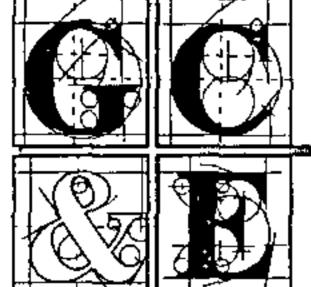
Beginning for the same at the intersection of the centerlines of New Gerst Road and East Joppa Road, thence running 750' south easterly along the centerline of East Joppa Road, thence leaving East Joppa Road North 18°00'00" East 15.78 feet, North 55°30'30" West 27.27 feet, North 34°25'00" East 92.57 feet, North 18°00'00" East 96.50 feet, North 33°58'00" East 14.62 feet, running thence,

- 1) North 53°13'00" West 52.36 feet,
- 2) North 37°22'00" East 124.20 feet,
- 3) South 53°12'00" East 47.13 feet,
- 4) South 34°37'00" West 124.23 feet, to the point of beginning.

Containing 6,223 square feet of land, more or less.

Note: This description only satisfies the requirements of the Office of Zoning and is not to be used for the purposes of conveyance.

#304



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December 7,2006

## ZONING DESCRIPTION SHELTON PROPERTY 5128 East Joppa Road Baltimore County, Maryland

All that piece or parcel of land situate, lying and being in the Eleventh Election District, Fifth Councilmanic District of Baltimore County, Maryland and described as follows to wit:

Beginning for the same at the intersection of the centerlines of New Gerst Road and East Joppa Road, thence running 750' south easterly along the centerline of East Joppa Road, thence leaving East Joppa Road North 18°00'00" East 15.78 feet, North 55°30'30" West 27.27 feet, North 34°25'00" East 92.57 feet, running thence

- 1) North 18°00'00" East 96.50 feet,
- 2) South 55°35'00" East 27.77 feet,
- 3) South 34°25'00" West 92.57 feet, to the point of beginning.

Containing 1,262 square feet of land, more or less.

Note: This description only satisfies the requirements of the Office of Zoning and is not to be used for the purposes of conveyance.

12/12/06



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**December 7,2006** 

## ZONING DESCRIPTION SHELTON PROPERTY 5128 East Joppa Road Baltimore County, Maryland

All that piece or parcel of land situate, lying and being in the Eleventh Election District, Fifth Councilmanic District of Baltimore County, Maryland and described as follows to wit:

Beginning for the same at the intersection of the centerlines of New Gerst Road and East Joppa Road, thence running 750' south easterly along the centerline of East Joppa Road, running thence,

- 1) North 18°00'00" East 15.78 feet,
- 2) North 55°30'30" West 27.27 feet,
- 3) North 34°25'00" East 92.57 feet,
- 4) North 18°00'00" East 96.50 feet,
- 5) North 33°58'00" East 14.62 feet,
- 6) North 53°13'00" West 45.23 feet,
- 7) South 37°11'10" West 217.18 feet,
- 8) South 55°40'00" East 114.81 feet, to the point of beginning.

Containing 15,571 square feet of land, more or less.

Note: This description only satisfies the requirements of the Office of Zoning and is not to be used for the purposes of conveyance.

12/12/06

#### DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

#### ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

#### OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

or Newspaper Advertising:
em Number or Case Number: <u>07-304-月</u>
etitioner: DAVID SHELTON
ddress or Location: 5128 E. Joppa RUAD
LEASE FORWARD ADVERTISING BILL TO: lame:のAYIの らみをしての レ
ddress: 2007 CLIPPER PARK DRIVE
UHIT ZIS
BALTIMORE, MD ZIZII
elephone Number: <u>410-823-4470</u>

Revised 7/11/05 - SCJ

## 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: # 07-304-A

5128 East Joppa Road

N/side of Joppa Road

N/side of Joppa Road

11th Election District

Sth. Case: Road

11th Election District

5th Councilmanic District Legal Owner(s): David

Legal Owner(s): David Shelton

Variance: to permit a minimum lot width of 47 feet in fieu of the required 85 feet and for a minimum side yard setback of 10 feet in lieu of the required 15 feet. Hearing: Thursday, March 1, 2007 at 9:00 a.m. In Room 407, County Courts Bullding, 401 Bosley Avenue, Towson 21204.

for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.

(2) For information concerning the File and/organization concerning the File and/organization concerning the File and/organization. WILLIAM J. WISEMAN, III
Zonling Commissioner for Baltimore County
'NOTES: (1) Hearings are Handicapped Accessible; . ġ

cerning the File an Hearing Contact the Ing Review Office at (4 887-3391)

JT 2/718 Feb 20 1256 125651 (410) Zon

in the following weekly newspaper published in Baltimore County, Md., once in each of THIS IS TO CERTIFY, that the annexed advertisement was published ,2001 successive weeks, the first publication appearing

🙀 The Jeffersonian Arbutus Times ☐ Catonsville Times NE Booster/Reporter Owings Mills Times **Towson Times** 

North County News

LEGAL ADVERTISING

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Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286 Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

#### **CERTIFICATE OF POSTING**

RE: CASE# 07-304-A

PETITIONER/DEVELOPER:

**David Shelton** 

DATE OF HEARING: March 1, 2007

BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT COUNTY OFFICE BUILDING, ROOM 111 111 WEST CHESAPEAKE AVE. TOWSON, MARYLAND 21204

**ATTENTION: KRISTEN MATTHEWS** 

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

**LOCATION:** 

5128 E. Joppa Road

(see page 2 for full size photo)

SIGNATURE OF SIGN POSTÉR

John J. Dill

GERHOLD, CROSS & ETZEL, LTD SUITE 100 320EAST TOWSONTOWN BLVD TOWSON, MARYLAND 21286 410-823-4470 PHONE 410-823-4473 FAX

TED ON: February 12, 2007



# NOTICE T

ASE #:07-304-A

HE ZONING COMMISSIONER IC HEARING WILL BE HELD BY IN TOWSON, MD.

401 Bosley Avenue, Towson, MD Room 407 County Courts Building

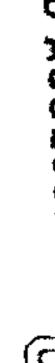
9:00 Am Thursday, March 1, 2007

Variance: To permit a minimum lot width of 47 feet in lieu of the required 85 feet and for a minimum side yard setback of 10 feet in lieu of the equired 15 feet, nce: To permit a minimum lot

OTHER CONDITIONS ARE SOMET WES

BEFORE THE SCHEDULED HEARING DATE

IGS ARE HANDICAPPED ACCESSIBLE





JAMES T. SMITH, JR. County Executive

January 29, 2007
TIMOTHY M. KOTROCO, Director
Department of Permits and
NG
Development Management

#### NOTICE OF ZONING HEARING

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

CASE NUMBER: 07-304-A

5128 East Joppa Road

N/side of Joppa Road, 1800 feet west centerline of New Gerst Road

11<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District

Legal Owners: David Shelton

Variance to permit a minimum lot width of 47 feet in lieu of the required 85 feet and for a minimum side yard setback of 10 feet in lieu of the required 15 feet.

Hearing: Thursday, March 1, 2007 at 9:00 a.m. in County Courts Building, Room 407 401 Bosley Avenue, Towson 21204

Timothy Kotroco

Director

TK:klm

C: David Shelton, 2007 Clipper Park Drive, Unit 215, Baltimore 21211 Bruce Doak, 320 E. Towsontown Blvd., Towson 21204

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

TO: PATUXENT PUBLISHING COMPANY

Thursday, February 13, 2007 Issue - Jeffersonian

Please forward billing to:

Bruce Doak

Gerhold, Cross & Etzel 320 E. Towsontown Blvd.

Towson, MD 21204

410-823-4470

#### 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: 07-304-A

5128 East Joppa Road

N/side of Joppa Road, 1800 feet west centerline of New Gerst Road

11th Election District – 5th Councilmanic District

Legal Owners: David Shelton

Variance to permit a minimum lot width of 47 feet in lieu of the required 85 feet and for a minimum side yard setback of 10 feet in lieu of the required 15 feet.

Hearing: Thursday, March 1, 2007 at 9:00 a.m. in County Courts Building, Room 407

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.



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director

Department of Permits and

Development Management

February 22, 2007

David Shelton 2007 Clipper Park Drive, Unit 215 Baltimore, MD 21211

Dear Mr. Shelton:

RE: Case Number: 07-304-A, 5128 E. Joppa Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 3, 2007.

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

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

Very truly yours,

W. Carl Richards, Jr. Supervisor, Zoning Review

u. Callibal)

WCR:amf

**Enclosures** 

c: People's Counsel
Bruce Doak Gerhold, Cross & Etzel 320 E. Towsontowne Blvd Towson 21286

From:

Debra Wiley

To:

Murray, Curtis

Date:

02/23/07 1:25:05 PM

Subject:

Office of Planning Comments Needed for Cases Next Week

Hi Curtis,

Bill has two cases next week that are missing comments as follows:\_

07-304-A - Thursday, March 1st 5128 E. Joppa Rd.

and

07-358-SPH - Friday, March 2nd 1710 Middleborough Road

Thanks very much!!

C connect

Emaie Sent 2/27

#### 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 January 26, 2007

ATTENTION: Zoning Review Planners

Distribution Meeting Of: January 22, 2007

Item Number: 304 and 307 through 321

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



Visit the County's Website at www.baltimorecountyonline.info

#### BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

**DATE:** January 24, 2007

Department of Permits & Development

Management

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

**SUBJECT:** 

Zoning Advisory Committee Meeting

For January 29, 2007

Item Nos. 07- 260,304, 307, 309, 310, 311, 312, 313, 314, 315, 317, 318, 319,

320, and 321

The Bureau of Development Plans Review has reviewed the subject zoning items and we have no comments.

DAK:CEN:clw

ce: File

ZAC-NO COMMENTS-01222007.doc



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

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

Maryland Department of Transportation

RE:

Date: JANUARY 23, 2007

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

Baltimore County
Item No. 7-304-A
5128 E. JODDA ROAD
SHELTON PROPERTY
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.7-304-A

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

Very truly yours,

Steven D. Foster, Chief

Engineering Access Permits

Division

SDF/MB

#### BALTIMORE COUNTY, MARYLAND

#### INTER-OFFICE CORRESPONDENCE

**DATE:** February 26, 2007

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

5218 East Joppa Road

**INFORMATION:** 

**Item Number:** 

7-304

Petitioner:

David Shelton

Zoning:

**DR 3.5H** 

Requested Action:

Variance

#### SUMMARY OF RECOMMENDATIONS:

Section 259.9.B.3 of the Baltimore County Zoning Regulations (BCZR) states that minimum lot widths for any single family detached lot is 85 feet. However, the rear half of the subject property has had an associated lot of record (approximately .12 acres) in existence prior to the adoption of the Honeygo Overlay District. While this lot has been enlarged through a lot line adjustment process (see with DRC# 010207J), the area increase did not result in an increase in the available gross density units.

Notwithstanding the lot line adjustment and overall lot area increase, the proposed building lot is far smaller than most surrounding lots and appears unique by comparison. For this reason, the Office of Planning does not oppose the petitioner's request for a minimum lot width of 47 feet and a side yard setback of 10 feet in lieu of the required 85 feet and 15 feet respectively.

However, it should not be overlooked that the Honeygo Overlay district design standards are applicable to subject. Specifically, section 259.9.C.3 through 259.9.C.7 shall apply to the construction of the proposed single-family dwelling shown on the petitions submitted site plan. To ensure the proposed dwelling is compatible with existing dwellings, the Office of Planning will require the petitioner to submit architectural elevation drawings that satisfy applicable building and site design criteria set forth under the Honeygo Overlay District guild lines. These elevations shall show all four facades of the proposed dwelling and be approved by this Office prior to applying for any building permits.

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

Reviewed by:

Division Chief:

AFK/LL: CM

PETITION FOR VARIANCE RE: 5128 E. Joppa Road; N/S Joppa Road, 1,800' W c/line New Gerst Road 11<sup>th</sup> Election & 5<sup>th</sup> Councilmanic Districts Legal Owner(s): David Shelton

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

**BALTIMORE COUNTY** 

07-304-A

#### ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO Deputy People's Counsel Old Courthouse, Room 47 400 Washington Avenue Towson, MD 21204

(410) 887-2188

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of January, 2007, a copy of the foregoing Entry of Appearance was mailed to, Bruce E. Doak, Gerhold, Cross & Etzel, Ltd, 320 E Towsontown Blvd, Towson, MD 21286, Representative for Petitioner(s).

RECEIVED

JAN 3 0 2007

Per.

ER MAX ZIMMERMAN

People's Counsel for Baltimore County

## PLEASE PRINT CLEARLY

CASE NAME Shelton CASE NUMBER 07-304-A DATE 21107

PETITIONER'S SICN-IN SHEE

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Case No.: 07-304-A 5128 E. JOAN RD

#### **Exhibit Sheet**

#### Petitioner/Developer

#### Protestant

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No. 1	5itz Plan accompany	
No. 2	Amended Site Plan at Request of ZAC-for	10P
No. 3	Photos - 3A-3L	
No. 4	Cienal Photo.	
No. 5	md'State Dept of assert & torpation	•
No. 6	Property DESD	
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#### 11-16-016700 & 11-16-016701

Tax Account No./Parcel Indentifier

, 2006, by and between Made this 13th day of April Alonzo L. Perry and Patricia F. Perry

party(ies) of the first part, and David M. Shelton

party(ies) of the second part:

Witnesseth, that in consideration of the sum of \$260.000.00 receipt of which is hereby acknowledged, and which party(ies) of the first part certify under the penalties of perjury as the actual consideration paid or to be paid, including the amount of any mortgage or deed of trust outstanding, the said party(ies) of the first part do(es) grant and convey unto the party(ies) of the second part in fee simple as\_\_\_\_

all that property situate in Baltimore \_\_\_\_County, State of Maryland, described as: BEGINNING FOR THE FIRST thereof at a point in the center line of the Joppa Road at the end of the third line of the land which by Deed dated June 4, 1945, and recorded among the Land Records of Baltimore County in Liber RJS No. 1393, folio 55, was conveyed by Michael Gerst and wife to Michael P. Gerst; and running thence and binding reversely on said third line North 18 degrees 00 minutes East 208.78 feet to the beginning thereof and to the beginning of the said line of the land which by Deed dated February 5, 1942, and recorded among the Land Records of Baltimore County in Liber CHK No. 1207, folio 267, was conveyed by John Gerst and wife to Frederick M. Mestl and wife; thence with a part of said second line, as now surveyed, North 33 degrees 58 minutes East 14.62 feet; thence for lines of division North 53 degrees 13 minutes West 45.23 feet and South 37 degrees 11 minutes 10 seconds West 217.18 feet to the center line of Joppa Road; and thence binding on the center line of Joppa Road South 55 degrees 40 minutes East 114.81 feet to the place of beginning.

(Continued on Attached)

which has an address of 5128 E. Joppa Road, Baltimore, MD 21236

Subject to covenants, easements and restrictions of record.

To Have and To Hold said land and premises above described or mentioned and hereby intended to be conveyed, together with the buildings and improvements thereupon erected, made or being, and all and every title, right, privileges, appurtenances and advantages thereunto belonging, or in anywise appertaining, unto and for the proper use only, benefit and behalf forever of said party(ies) of the second part in fee simple.

Being the same property described in Libe 5026 folio 412, among the said Land Records.

And the said party(ies) of the first part covenants that it will warrant specially the property hereby conveyed and that it will execute such further assurances of said land as may be requisite or necessary.

In Testimony Whereof, the said party of the first part has set its hand(s) and seal(s) the year and day first above written.

Printed Name: Witness

Printed Name: Witness

Patricia F. Perry

STATE OF Maryland

COUNTY OF Baltimore I Hereby Certify that on this 13th day of April \_\_\_\_\_, 2006, before me, the undersigned subscriber, did personally appear Alonzo L. Perry and Patricia F. Perry

known to me or satisfactorily proved to be the person(s) whose name(s) are set forth in the within deed, and did further acknowledge that they executed the aforegoing deed for the purposes therein contained.

NOTARY \P∷JUC**/**Q

Witness Mx Hand And Notarial Seal. JEANNE M. RIPLEY-Notary Public, State of Marylan County of Sattimore My Commission Expires July 1, 2007

Jeanne M. Ripley Notary Public

My Commission Expires: 07/01/06

I certify that this instrument was prepared under the supervision of an attorney admitted to practice before the Court of Appeals of Maryland.

Jeanne M. Ripley

BA CIRCUIT COURT (Land Records) [MSA CE 62-23725] SM 23870, p. 0284. Printed 10/24/2006. Online 09/30/2006.

PETITIONER'S

4

Parcel ID Number: 11-16-016700 & 11-16-016701

BEGINNING FOR THE SECOND thereof at the end of the second line of the land which by Conformatory Deed dated April 12, 1947, and recorded among the Land Records of Baltimore County in Liber JWB No. 1557, folio 76, was conveyed by John Gerst and wife to James E. Vanhorn; running thence binding on the third line of said land and continuing the same course in all North 53 degrees 13 minutes 00 seconds West 52.36 feet; thence for lines of division North 37 degrees 22 minutes 00 seconds East 124.20 feet; thence South 53 degrees 12 minutes 00 seconds East 47.13 feet and South 34 degrees 57 minutes 00 seconds West 124.23 feet to the place of beginning.

TOGETHER WITH all that property described in Deed dated September 3, 2004 and recorded among the Land Records of Baltimore County in Liber SM 20831, folio 260 from John J. Kuta and Angela R. Kuta unto the Grantors herein, and described as follows:

BEGINNING at the end of the second line of a deed Liber 5235Folio 213 dated December 2, 1971 between Shirley E. Gribble of
Baltimore County in the State of Maryland, Grantor to John Kuta and
Angela R. Kuta, his wife, of Baltimore County, in the State of
Maryland, Grantees, and running thence and binding reversely in said
second line from a pipe found as now surveyed south 52 degrees 09
minutes east- 27.77 feet to a pipe set. Thence south 37 degrees 51
minutes west- 92.57 feet to a pipe set, thence north 21 degrees 26
minutes east- 96.50 feet to point of beginning. Containing 0.029
acres, more or less.

SAVING AND EXCEPTING all that property as described in Deed dated September 3, 2004 and recorded among the Land Records of Baltimore County in Liber SM 20831, folio 265 from the Grantors herein unto John J. Kuta and Angela R. Kuta and described as follows:

BEGINNING at the end of the third line of a deed Liber 5026-Folio 412 dated August 13, 1969 between Marie Nellie Gerst of Baltimore County in the State of Maryland, Grantor, to Alonzo L. Perry and Patricia F. Perry, his wife, of Baltimore County, in the State of Maryland, Grantees and running thence and Binding reversely on said third line from a pipe now found as now surveyed North 37 degrees 51 minutes east- 92.57 feet to a pipe set, thence south 21 degrees 26 minutes West- 96.50 feet to a pipe set thence, north 52 degrees 04 minutes 30 seconds west- 27.27 feet to the point of beginning. Containing 0.029 acres, more or less.

The improvements thereon being known as No. 5128 E. Joppa Road.

BA CIRCUIT COURT (Land Records) [MSA CE 62-23725] SM 23870, p. 0285. Printed 10/24/2006. Online 09/30/2006.

#### TRANSFEROR AFFIDAVIT AND CERTIFICATION AS TO "TOTAL PAYMENT"

Each of the undersigned hereby affirms under the penalties of perjury that the foregoing is true and correct to the best of their information, knowledge and belief.

1. This affidavit is made in accordance with Section 10-912(b)(2) of the Tax-General Article of the Annotated Code of Maryland.

2. The undersigned is/are the transferors(s) of the real property described in an accompanying deed

and related closing documents.

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3. The undersigned have examined the settlement statement prepared in connection with the transfer of the property, including both the gross amounts due and the listing of expenses and adjustments which result in a reduction in the net proceeds due.

4. The undersigned understands that, for purposes of the tax withholding law, the calculation of a

"total payment" is determined as follows:

a. Total payment includes the fair market value of any property transferred as part of the sale;

b. Only expenses arising out of this sale or exchange of the property have been deducted from

the gross proceeds to arrive at the total payment figure.

c. Debts incurred in contemplation of sale (i.e. debts secured by the property that were incurred within 120 days of the sale, including loan funds received from financing or refinancing, as well as advances received on new or existing lines of credit) were not deducted from the gross proceeds in calculating the total payment;

5. The undersigned declares that the amount of "total payment" for the purpose of the above cited

statute is \$ 242.007. 41

Elica 2

Alonzo L. Perry

Patricia F. Perry

State of Maryland

County of Baltimore
SWORN TO AND SUBSCRIBED before me this 13th day of April

, A.D. 2006

Jeanne M. Ripley

Notary Public

My Commission Expires: 07/01/06

NO ARY I NO

JEAN LOM, RIPLEY Notary Production County of California for Expires fely 1,2000

#### Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that transferred property is the transferor's principal residence.

1. Transferor Information							
Name of Transferor Alonzo L. Perry and Patricia F. Perry							
	2. Reasons for Exemption						
Resident Status	I, Transferor, am a resident of the State of Maryland.  Transferor is a resident entity under §10-912(A)(4) of the Tax-General Article of the Annotated Code of Maryland, I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.						
Principal Residence	Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC §121.						
	ty of perjury, I certify that I have examined this declaration and that, to the best of my is true, correct, and complete.    Alonzo L. Perry   (Seal Manager L. Perry   Complete   Complet						
Printed N Witness	Patricia F. Perry (Seal						

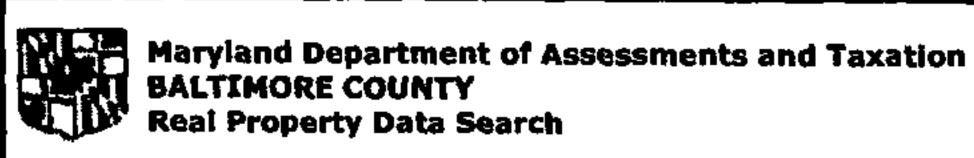
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Pink - Office of Finance Goldenrod - Preparer AOC-CC-300 (6/95)

#### Click here for a plain text ADA compliant screen.



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

**Account Identifier:** 

District - 11 Account Number - 1116016701

#### **Owner Information**

**Owner Name:** 

SHELTON DAVID M

**Sub District** 

Use:

RESIDENTIAL

Principal Residence:

NO

Malling Address:

**UNIT 215** 

**Deed Reference:** 

1) /23870/ 284

2007 CLIPPER PARK DR BALTIMORE MD 21211-1462

#### **Location & Structure Information**

Section

**Premises Address** 

E JOPPA RD

Map

Legal Description

.12 AC

**NES E JOPPA RD** N OF GERST LANE

Plat No: **Assessment Area** Plat Ref:

**Special Tax Areas** 

Grid

11

Town **Ad Valorem** 

Tax Class

**Primary Structure Built** 0000

**Parcel** 

819

**Enclosed Area** 

Subdivision

**Property Land Area** 5,416.00 SF

**County Use** 04

**Stories** 

Basement

Type

Block Lot

Exterior

#### **Value Information**

Base **Value** Phase-in Assessments Value As Of As Of As Of 01/01/2006 07/01/2006 07/01/2007 Land: 3,040 2,700 Improvements: Total: 3,040 2,700 2,700 2,700 **Preferential Land:** 

#### Transfer Information

PERRY ALONZO L Seller: **MULT ACCTS ARMS-LENGTH** Type: Seller: Type:

05/18/2006 Date: Deed1: /23870/ 284

\$260,000 Priçe: Deed2:

Date: Deed1:

Price: Deed2:

Date: Deed1: Price: Deed2:

#### **Exemption Information**

**Partial Exempt Assessments** Class 07/01/2006 07/01/2007 000 County 000 State Municipal 000

Tax Exempt: **Exempt Class:** 

Seller:

Type:

NO

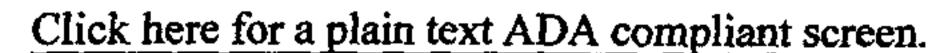
**Special Tax Recapture:** 

<u>\* NONE \*</u>

PETITIONER'S

EXHIBIT NO.

5 A . B





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

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

**Account Identifier:** 

District - 11 Account Number - 1116016700

#### **Owner Information**

**Owner Name:** 

SHELTON DAVID M

Use:

RESIDENTIAL

Principal Residence:

NO

2)

Mailing Address:

**UNIT 215** 

**Deed Reference:** 

1) /23870/ 284

2007 CLIPPER PARK DR

BALTIMORE MD 21211-1462

#### Location & Structure Information

**Premises Address** 

5128 E JOPPA RD

Legal Description

.49 AC

5128 E JOPPA RD NS 640 FT SE GERST LN

Grid Map Parcel **Sub District** Subdivision Section Block **Assessment Area** Plat No: Lot 819 Plat Ref:

**Special Tax Areas** 

Town **Ad Valorem** 

**Tax Class Primary Structure Built Enclosed Area Property Land Area** 1943 1,960 SF 21,338.00 SF

04 **Type Exterior** 

**Stories** 1 1/2

YES

Basement

STANDARD UNIT

FRAME

**County Use** 

#### **Value Information**

Base Value Phase-in Assessments Value As Of As Of As Of 01/01/2006 07/01/2006 07/01/2007 Land: 40,920 105,580 Improvements: 124,640 128,140 Total: 165,560 233,720 188,280 211,000 Preferential Land: 0 0

#### **Transfer Information**

Seller: PERRY ALONZO L Date: 05/19/2006 \$260,000 Price: **MULT ACCTS ARMS-LENGTH** Type: Deed1: /23870/ 284 Deed2: Seller: Date: Price: Type: Deed1: Deed2: Seiler: Date: Price: Type: Deed1: Deed2:

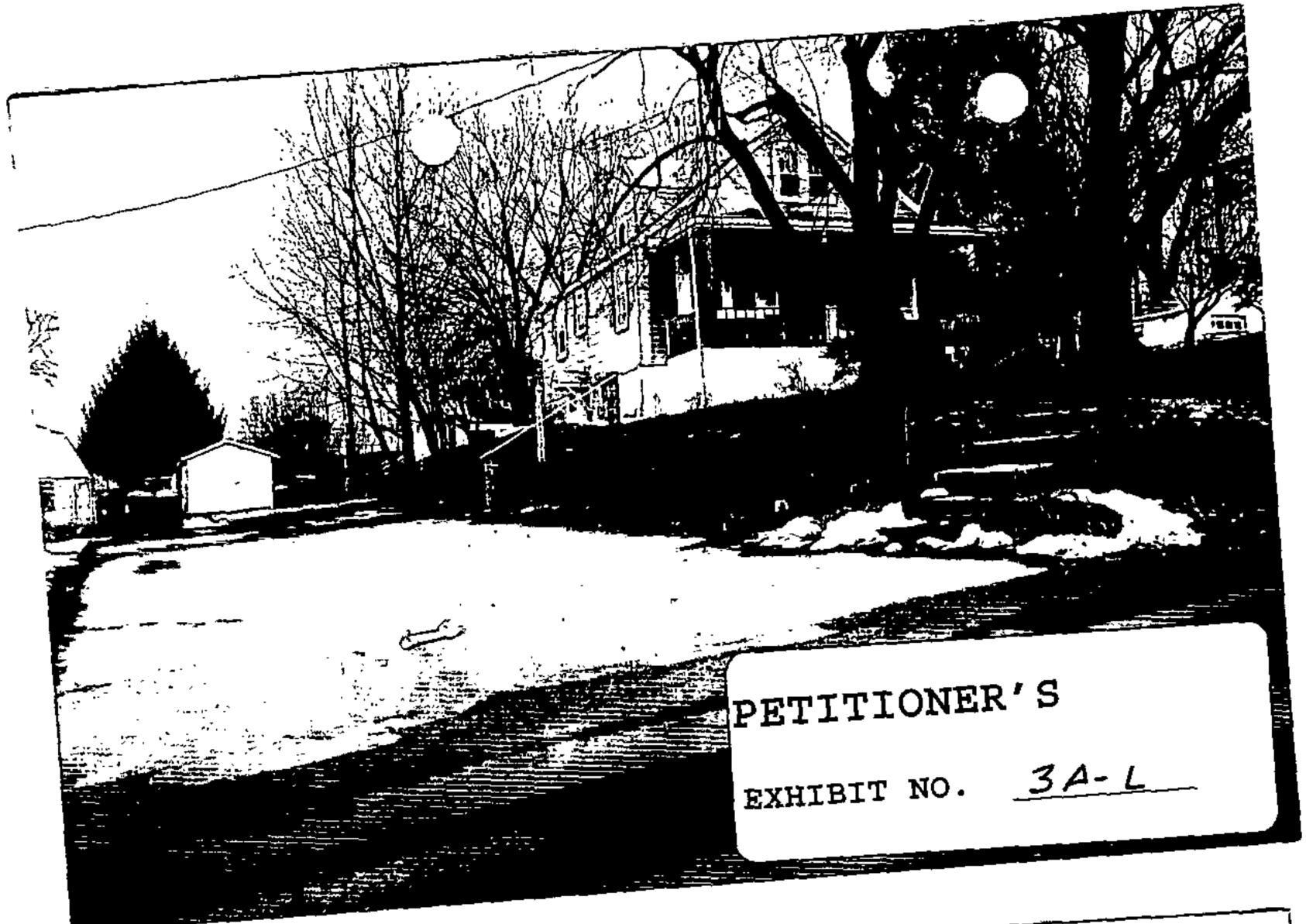
#### **Exemption Information**

Partial Exempt Assessments Class County 000 State 000 Municipal 000	07/01/2006 0 0 0	07/01/2007 0 0 0
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Tax Exempt: **Exempt Class:**  NO

**Special Tax Recapture:** 

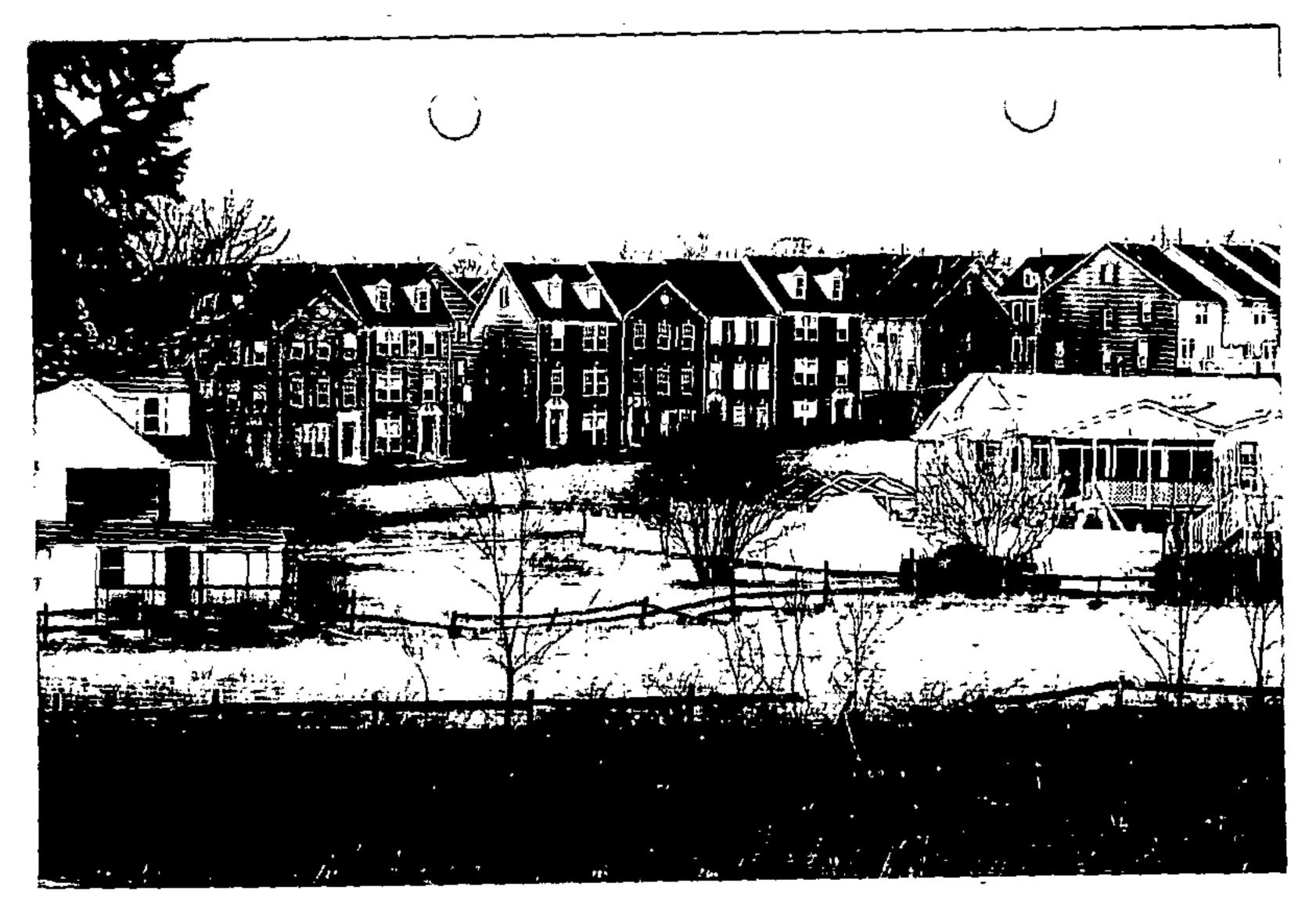
\* NONE \*







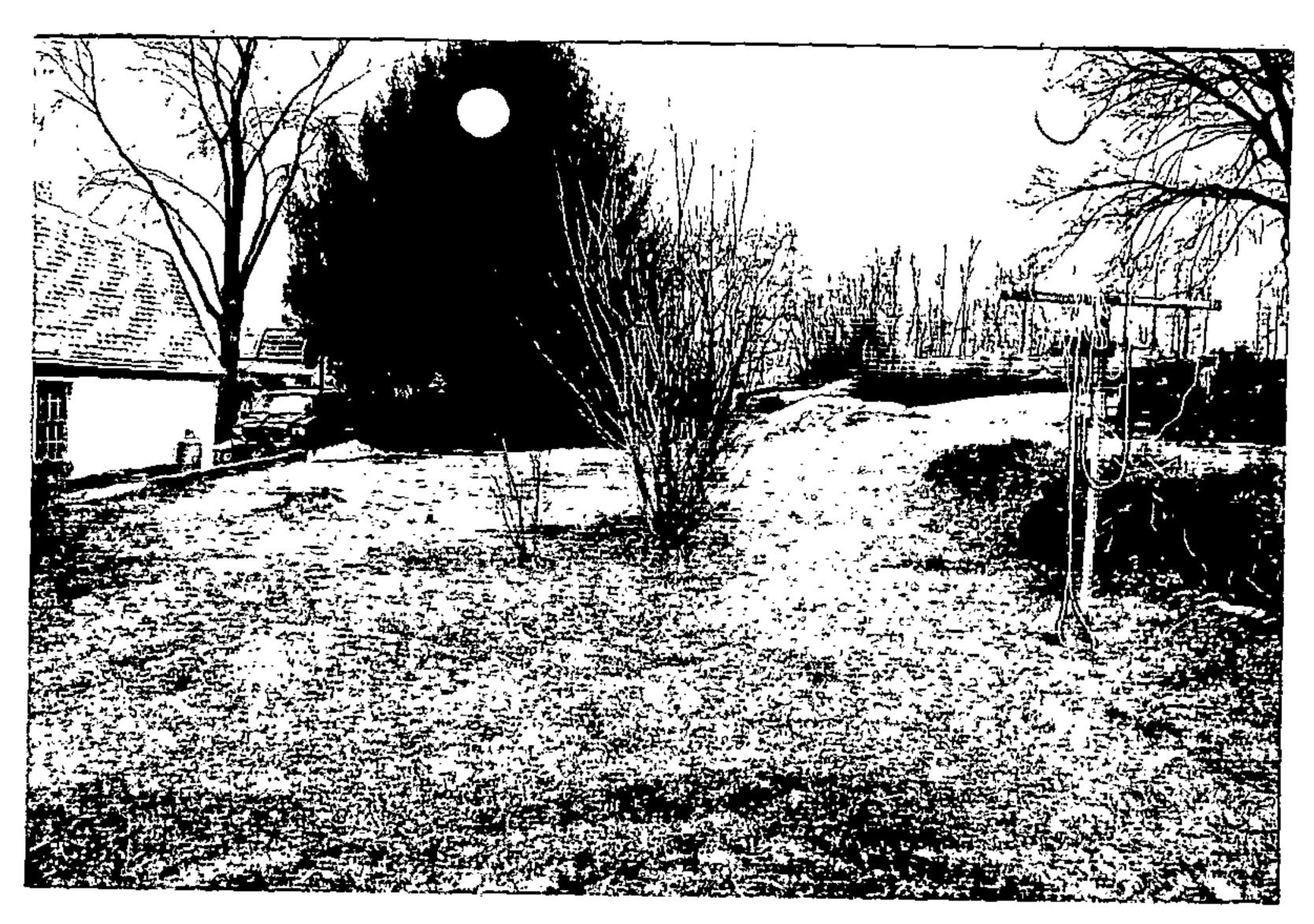





















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PETITIONER'S
EXHIBIT NO.