

IN RE: PETITION FOR ADMIN. VARIANCE

E side Halethorpe Avenue, 400 feet

N c/l John Street

13th Election District

1st Councilmanic District

(1921 Halethorpe Avenue)

Todd W. and Jennifer R. Clontz

Petitioners

*

BEFORE THE

*

DEPUTY ZONING COMMISSIONER

*

BALTIMORE COUNTY

*

CASE NO. 07-312-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Todd W. and Jennifer R. Clontz. The variance request is for property located at 1921 Halethorpe Avenue. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 8 feet, and a sum of side yards of 16 feet in lieu of the required 15 feet and 40 feet respectively for a proposed two-story addition, and to amend the previously approved site plan per Case No. 03-008-A. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. The Petitioners state their lot is approximately 52 feet wide. They wish to add a one car garage with master bedroom and bathroom above. The new addition measures 16 feet wide x 32 feet deep. The lot is deep but not very wide and the only location that will for their needs is on the south side of the existing house.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: None.

Applicable Law

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

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area

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

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on January 21, 2007 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits and photographs as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

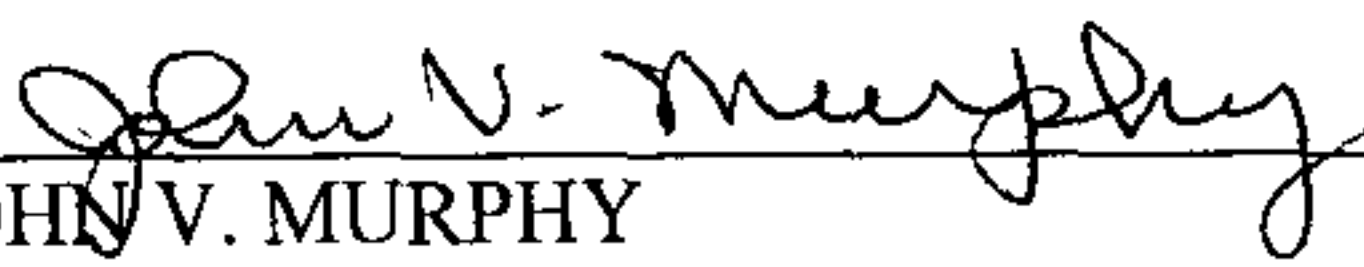
Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 12th day of February, 2007 that a variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 8 feet, and a

sum of side yards of 16 feet in lieu of the required 15 feet and 40 feet respectively for a proposed two-story addition, and to amend the previously approved site plan per Case No. 03-008-A be and is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

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


JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

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2-12-07
PZ



Petition for Administrative Variance to the Zoning Commissioner of Baltimore County

for the property located at 1921 HALETHORPE AVE.
which is presently zoned DR2

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)

SEE ATTACHED

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

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 bound 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:

Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

Legal Owner(s):

Name - Type or Print

Signature

Name - Type or Print

Signature

1921 HALETHORPE AVE 410-636-1007
Address Telephone No.

City State Zip Code

Representative to be Contacted:

EDUARDO H. DENT JR.
Name

626-C ADMIRAL DR. #511 410-320-4964
Address Telephone No.

ANNAPOLIS MD 21401
City State Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this day of that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 202-313-A

REV 10/25/01

Reviewed By BN Date 1/9/07

Estimated Posting Date 1/21/07

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 1921 HALETHORPE AVE.
Address
BALTIMORE MD 21227-4510
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

The lot located at **1921 Halethorpe Ave.** is an undersized lot with a width of approximately 52'. We are requesting a variance for less than the required side yard setbacks. The required sum of side yards is 40' and we are requesting the sum of side yards to be 16'.

The required individual side yard is 15' and we have an existing individual side yard of 8' from a previous variance 03-008A.

We are trying to add a one car garage with master bedroom and bathroom above. The new addition would be 16' wide and 32' deep. Our lot is deep but not very wide and the only location that will work for our needs would be on the South East side of the existing house.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

x [Signature]
Signature
x Jennifer R. Clontz
Name - Type or Print

x [Signature]
Signature
x Todd W Clontz
Name - Type or Print

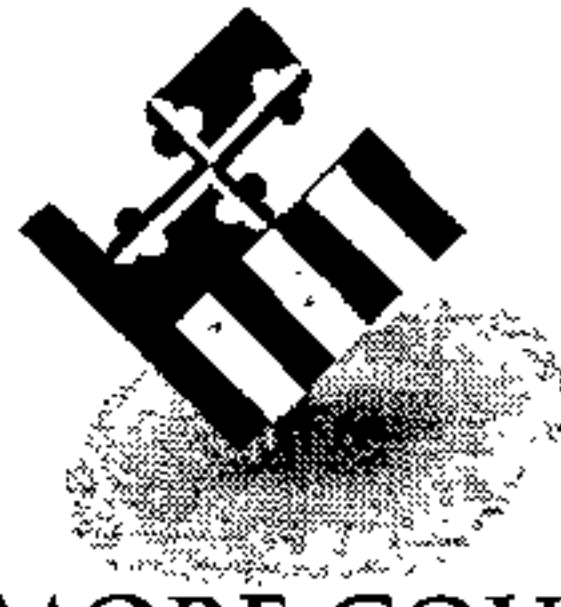
STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 22nd day of September, 2006, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Jennifer and Todd Clontz
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

[Signature]
Notary Public
My Commission Expires 7-1-09



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

February 9, 2007

TODD W. AND JENNIFER R. CLONTZ
1921 HALETHORPE AVENUE
BALTIMORE MD 21227

Re: Petition for Administrative Variance
Case No. 07-312-A
Property: 1921 Halethorpe Avenue

Dear Mr. and Mrs. Clontz:

Enclosed please find the decision rendered in the above-captioned case. The petition for administrative variance has been granted in accordance with the enclosed Order.

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

Very truly yours,

A handwritten signature in cursive script that reads "John V. Murphy".

John V. Murphy
Deputy Zoning Commissioner

JVM:pz

Enclosure

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2-12-07
pz

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 1921 HALETHORPE AVE.
Address
BALTIMORE MD 21227-4510
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

The lot located at **1921 Halethorpe Ave.** is an undersized lot with a width of approximately 52'. We are requesting a variance for less than the required side yard setbacks. The required sum of side yards is 40' and we are requesting the sum of side yards to be 16'.

The required individual side yard is 15' and we have an existing individual side yard of 8' from a previous variance 03-008A.

We are trying to add a one car garage with master bedroom and bathroom above. The new addition would be 16' wide and 32' deep. Our lot is deep but not very wide and the only location that will work for our needs would be on the South East side of the existing house.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

x [Signature]
Signature

x Jennifer R. Clontz
Name - Type or Print

x [Signature]
Signature

x Todd W Clontz
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 22nd day of September, 2006, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Jennifer and Todd Clontz
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

[Signature]
Notary Public

My Commission Expires 7-1-09



Petition for Administrative Variance to the Zoning Commissioner of Baltimore County

for the property located at 1921 HALETHORPE AVE.
which is presently zoned DR2

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)

SEE ATTACHED

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

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:

Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

Legal Owner(s):

Name - Type or Print

Signature

Name - Type or Print

Signature

1921 HALETHORPE AVE. WORK 410-636-1007
Address HOME 410-247-5007

BALTIMORE MD 21227-4510
City State Zip Code

Representative to be Contacted:

Name EDWARD H. DENT JR.

Address 626-C ADMIRAL DR. #511 410-320-4864

City ANNAPOLIS MD 21401
State Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this 13th day of February, 2007, that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 07-312-A

REV 10/25/01

Reviewed By BR Date 1/9/07

Estimated Posting Date 1/21/07

1921 Halethorpe Ave.

1 B02.3.C.1 (BCZR) to permit a side yard setback of 8 ft, and a sum of side yards of 16 ft. in lieu of the required 15 ft. and 40 ft. respectively for a proposed two-story addition, and to amend the previously approved site plan per case # 03-008-A

312

LEGAL DESCRIPTION FOR LOT LOCATED AT 1921 HALETHORPE AVENUE

BEGINNING for the same at iron pipe found at the end of third or South 53° 30' West 407.75 feet line of said parcel, said iron pin being on the easterly right-of-way line of Halethorpe Ave.; thence running with and binding on said right-of-way.

1. North 29° 29' 03" West 52.25 feet to a point passing over an iron pin 0.30 feet from the end; thence leaving said right-of-way and running with and binding on part of the first line of said parcel, as now surveyed.
2. North 52° 54' 37" East 170.15 feet to an iron pin set; thence for a new line of division in, over, across, and through said parcel.
3. South 29° 29' 03" East 50.25 feet to an iron pin found on said third line of said parcel; thence running with said third line as now surveyed.
4. South 52° 54' 37" West 170.15 feet to the place of beginning.

CONTAINING 8,812 Sq. Ft. or 0.202 acres of land more or less.

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No: 23090

DATE

1/9/07

ACCOUNT

R001-006-615.0

AMOUNT

\$ 115.00

RECEIVED

FROM:

Cash - Teller Clerk

FOR:

Administrative Services

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

Town of 3/13

PAID RECEIPT

BUSINESS ACTUAL

TIME

DAY

1/10/2007

10/10/19

2

REG NO: 00000000000000000000

RECEIPT # 490000 12/31/2005

OFF

Dept. 5 520 ZIMMER VERIFICATION

CR NO. 020000

Receipt for

\$115.00

\$1.00 CR

\$115.00 CA

Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case No.: 07-312-A

Petitioner/Developer: TODD &

JENNIFER CLOUTZ

Date of Hearing/Closing: 2-5-07

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: _____

1921 HALETHORPE RD AVE

The sign(s) were posted on 1-21-07
(Month, Day, Year)

Sincerely,

Robert Black 1-23-07
(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)



3 12 13
1 0000
2-7-0000 1000 1000

2000 1000 1000 1000 1000

10000

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JAN 25 2007

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 07- 312 -A Address 1921 Halethorpe Ave.
Contact Person: Bruno Rudaitis Phone Number: 410-887-3391
Planner, Please Print Your Name
Filing Date: 1/9/07 Posting Date: 1/21/07 Closing Date: 2/5/07

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
2. **DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
3. **ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification (typically within 7 to 10 days of the closing date) as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 07- 312 -A Address 1921 Halethorpe Ave.
Petitioner's Name Todd & Jennifer Cloutz Telephone 410-636-1007
Posting Date: 1/21/07 Closing Date: 2/5/07
Wording for Sign: To Permit a side yard setback of 8 ft. and a sum of side yards of 16 ft. in lieu of the
required 15 ft. and 40 ft. respectively for a proposed two-story addition, and to amend the previously approved
site plan per case # 03-008-A

WCR - Revised 6/25/04

**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.

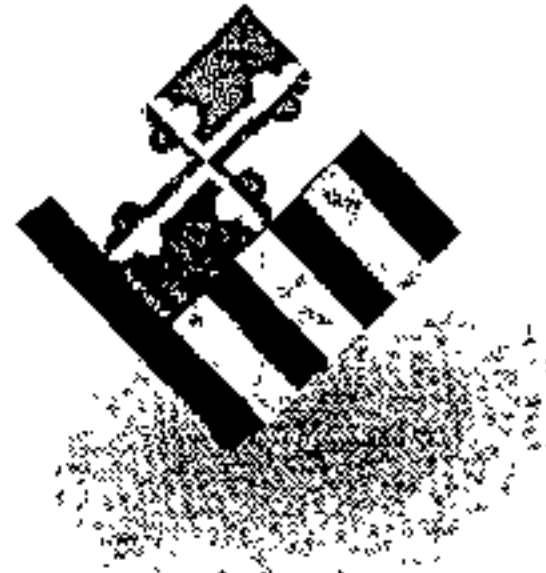
For Newspaper Advertising:

Item Number or Case Number: 07-312-A
Petitioner: Todd Cloutz
Address or Location: 1921 HALETHORPE AVE.

PLEASE FORWARD ADVERTISING BILL TO:

Name: BOB & JENNIFER CLOUTZ
Address: 1921 HALETHORPE AVE.
BALTIMORE, MD 21227-4510

Telephone Number: HOME 410-247-5007 WORK 410-630-1007 (TODD)



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

February 5, 2007

Todd W. Clontz
Jennifer R. Clontz
1921 Halethorpe Avenue
Baltimore, MD 21227

Dear Mr. and Mrs. Clontz:

RE: Case Number: 07-312-A, 1921 Halethorpe Avenue

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

A handwritten signature in black ink, reading "W. Carl Richards, Jr.".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
Edward H. Dent, Jr. 626-C Admiral Drive, #511 Annapolis 21401

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: January 24, 2007

FROM: Dennis A. Kennedy, Supervisor^{DK}
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

cc: File

ZAC-NO COMMENTS-01222007.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: February 2, 2007

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 07-312 – Administrative Variance**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

For further questions or additional information concerning the matters stated herein, please contact Dennis Wertz in the Office of Planning at 410-887-3480.

Prepared By: CTM

Division Chief: [Signature]

CM/LL

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

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



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

Maryland Department of Transportation

Date: JANUARY 23, 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. 7-312-A
1921 HALETHORPE AVE.
CLONTZ PROPERTY
ADMINISTRATIVE VARIANCE

Dear Ms. Matthews:

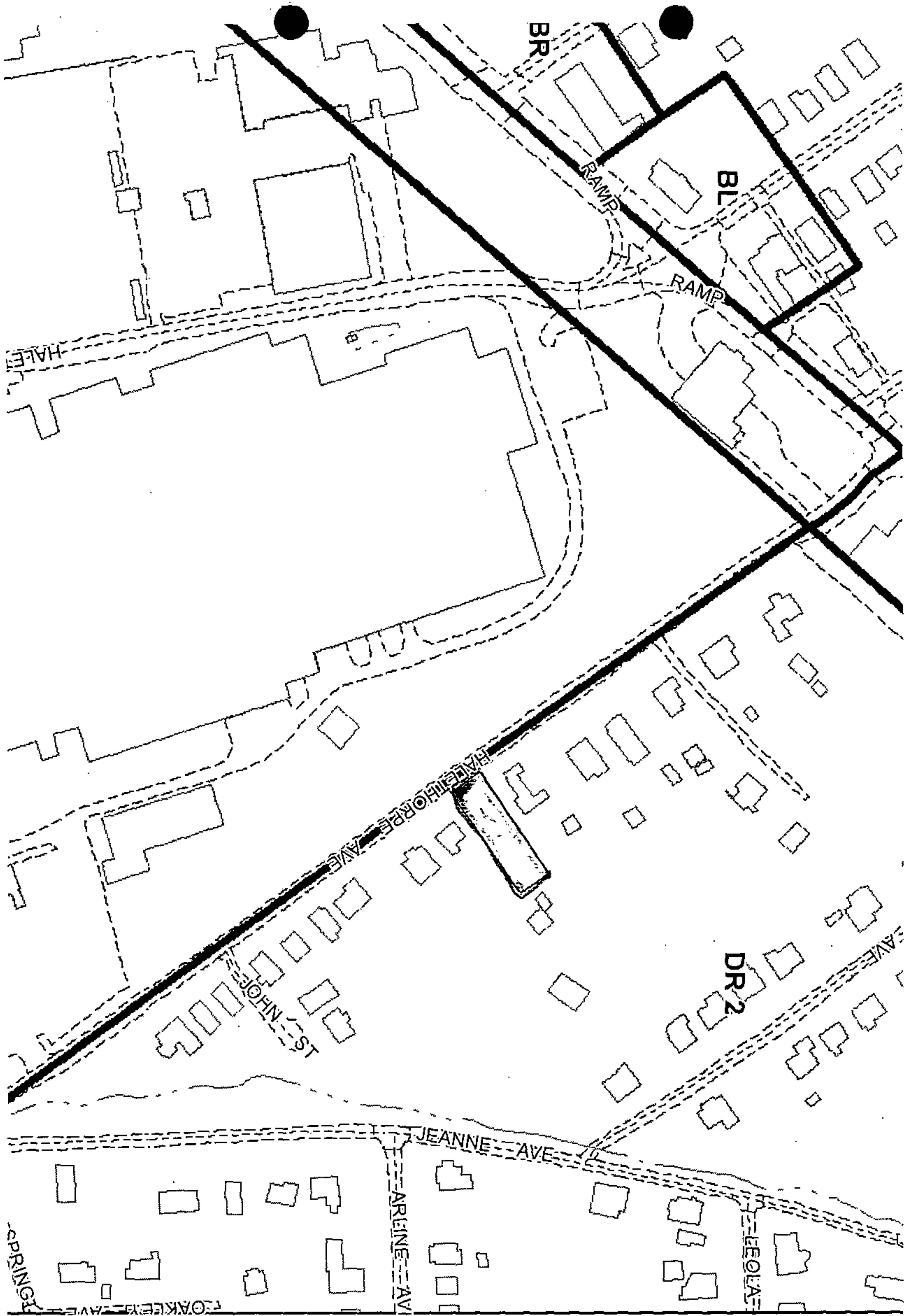
Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 7-312-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,

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB



313

Map # 108C2

IN RE: PETITION FOR VARIANCE
NE/S Halethorpe Avenue, 749.5' SE of
Washington Boulevard
(1921 Halethorpe Avenue)
13th Election District
1st Council District

Waskey Investments, Inc., Owners;
John Butcher, Contract Purchaser

prior zoning case

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 03-008-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 owners of the subject property, Waskey Investments, Inc., by Larry Porter, General Partner, and the Contract Purchaser, John Butcher, through their attorney, Michael Gisriel, Esquire. The Petitioners seek relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed dwelling with side yard setbacks of as close as 8 feet in lieu of the minimum required 15 feet, and a sum of the side yards of 28 feet in lieu of the required 40 feet, and to approve the subject property as an undersized lot. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Larry Porter on behalf of Waskey Investments, Inc., property owner, John Heinrichs, the Professional Engineer who prepared the site plan for this property, and Michael Gisriel, Esquire, attorney for the Petitioners. Appearing as Protestants in the matter were Barbara Howard and Edward Smith, who reside to the rear of the subject property.

Testimony and evidence offered revealed that the subject property is a rectangular shaped parcel located on the northwest side of Halethorpe Avenue, not far from Washington Boulevard in western Baltimore County. The property contains a gross area of 8,812 sq.ft., more or less, approximately 53 feet wide by 170 feet in dimension, and is located within an older subdivision known as Halethorpe Terrace. The property was originally zoned D.R.5.5; however,

was downzoned to D.R.2 in 1996. Testimony indicated that Waskey Investments, Inc. recently acquired the subject property through bankruptcy/foreclosure proceedings. Apparently, the prior owner had attempted to subdivide the subject property and an adjacent parcel and develop the overall tract with several single-family dwellings. He was apparently unsuccessful and the subject lot is all that remains from his original holdings.

The current owners/Petitioners now come before me seeking approval to develop the subject lot with a single-family dwelling. As shown on the site plan, the proposed structure will be a two-story, cottage type dwelling, a maximum 24 feet wide and 39.5 feet deep. The dwelling will be setback 42 feet from the front property line, which is consistent with neighboring dwellings on either side of the subject lot. Variance relief is requested, however, from the side yard setback requirements. Although a 20-foot setback will be maintained on the south side of the property, only an 8-foot side yard setback can be maintained on the north side, with a side yard setback sum of 28 feet. Relief is also requested because the lot is undersized. Under the D.R.2 zoning classification, a minimum lot area of 20,000 sq.ft. is required and as noted above, the subject lot is only 8,812 sq.ft. in area. Testimony and evidence offered in support of the request was that without variance relief, the lot could not be developed. Obviously, strict compliance with the regulations would require a house no greater than 12 feet in width, which is impractical.

The residents of the community who appeared raised a number of issues. The primary area of concern relates to ongoing flooding in the area. As noted above, this is an older community with insufficient storm water management infrastructure (i.e., storm drains, curb and gutter, etc.). The neighbors are concerned that the proposed development will further exacerbate the problem.

Similar comments were expressed in the Zoning Advisory Committee (ZAC) comment submitted by the Office of Planning. That comment noted that the entire Halethorpe Terrace subdivision, which encompasses approximately 167 acres, was downzoned from D.R.5.5 to D.R.2 in 1996. The comment also noted that a flooding problem has existed in this community for nearly 100 years due to the lack of infrastructure. The Office of Planning recommends a denial of the request, but noted that the Department of Public Works, the Office of Community Conservation,

the Office of Planning, and the Community Association had worked together to develop a plan of action to control storm water runoff in the area. Apparently, these controls have been implemented and construction has commenced; however won't be completed until fiscal year 2003-2004.

Based upon the testimony and evidence presented, this is a classic variance case. To deny relief would result in a practical difficulty upon the Petitioner in that there would be no reasonable use of the property for a permitted purpose. Thus, I find that the Petitioner has met the requirements of Section 307 of the B.C.Z.R. and Cromwell v. Ward, 102 Md. App. 691 (1995) for variance relief to be granted. However, although I am persuaded that the proposed single-family dwelling should be permitted, I am appreciative of the concerns expressed by the neighbors and the Office of Planning. In this regard, the location of the house on the lot and the topography of the site are to be noted.

As stated above, the house will be setback 42 feet from the front property line, a distance consistent with other houses on this street. Apparently, due to the prior owner's plans, the residents who reside to the rear of the lot had feared that the house might be constructed towards the rear of the subject property, further exacerbating drainage problems on their properties. The neighbors were relieved that the proposed house would be located on the front portion of the site, further away from their homes.

It is also to be noted that the plan shows the elevations for the subject and adjacent properties. Apparently, these elevations were obtained from County GIS records. The elevations and site plan show that the proposed dwelling will be built on the lot in a location approximately 98 feet above sea level. The rear of the lot rises to an elevation of 102 feet. Thus, the lot is higher towards the rear than where the house is to be constructed. Thus, storm water runoff from the house and driveway will flow downhill towards Halethorpe Avenue and away from the residences to the rear of the site.

Finally, however, in order to assure that the construction will not aggravate existing storm water conditions, I shall impose two restrictions. First, the proposed driveway shall be constructed of a pervious/porous material and not of an impervious nature. A crushed stone or

similar driveway would be appropriate so as to minimize runoff from the property. Secondly, testimony and evidence offered indicated that there were no plans for construction before next year. Thus, I will prohibit the Petitioner from obtaining a building permit before May 1, 2003. This restriction is being imposed in the hope that construction after May 1, 2003 will be consistent with the timing of planned County infrastructure improvements to the area and more importantly, avoid construction on the subject property during the typically wet spring season.

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

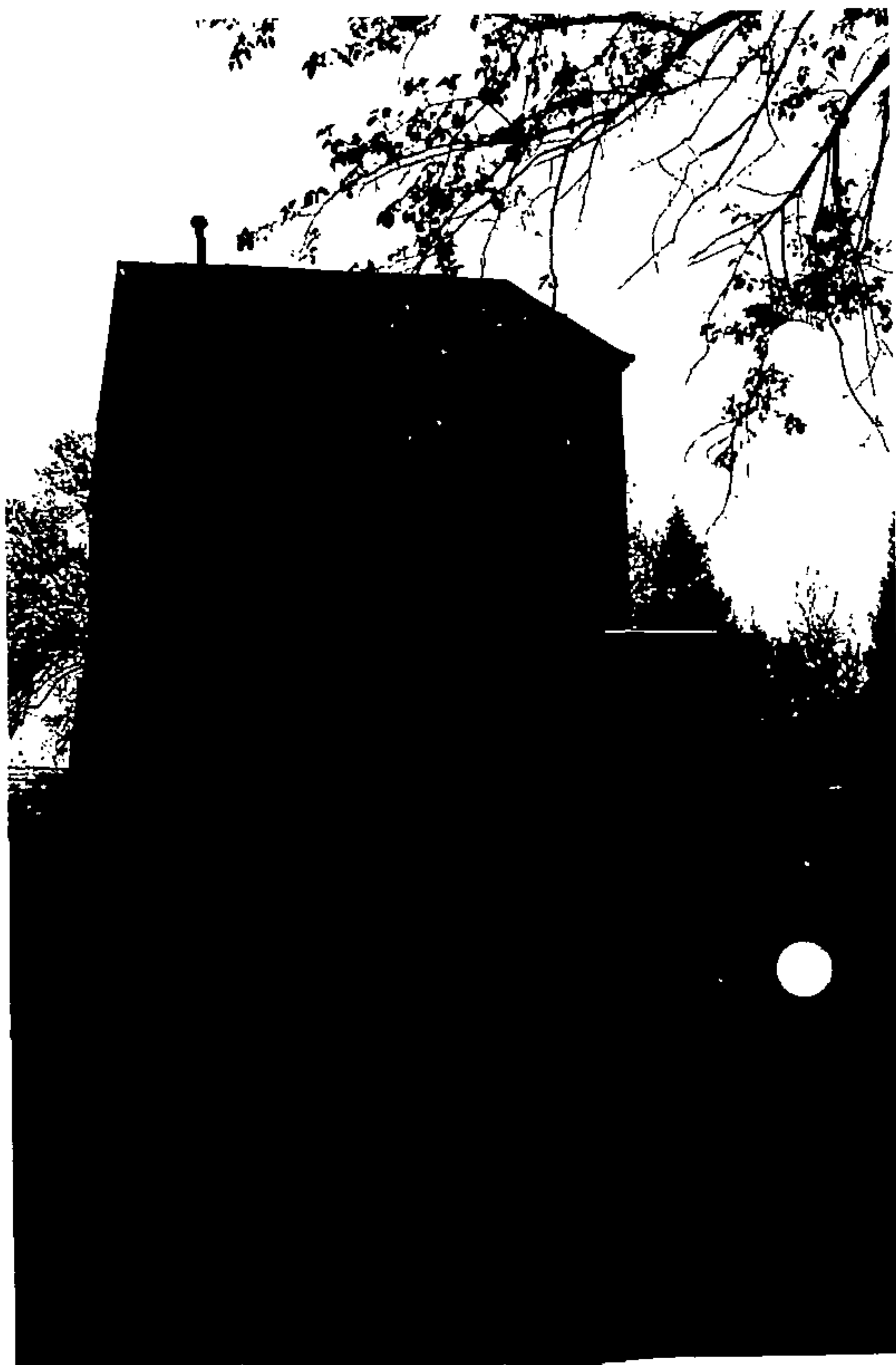
THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this _____ day of September, 2002, that the Petition for Variance seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed dwelling with side yard setbacks of as close as 8 feet in lieu of the minimum required 15 feet, and a sum of the side yards of 28 feet in lieu of the required 40 feet, and to approve the subject property as an undersized lot, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit; however, no permit shall be issued before May 1, 2003.
- 2) The 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.
- 3) The proposed driveway shall be constructed of a pervious/porous material such as crushed stone, so as to minimize storm water runoff from the property.
- 4) The proposed dwelling will be constructed substantially in accordance with the building elevation drawings submitted into evidence and marked as Petitioner's Exhibit 5.

LES:bjs

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County





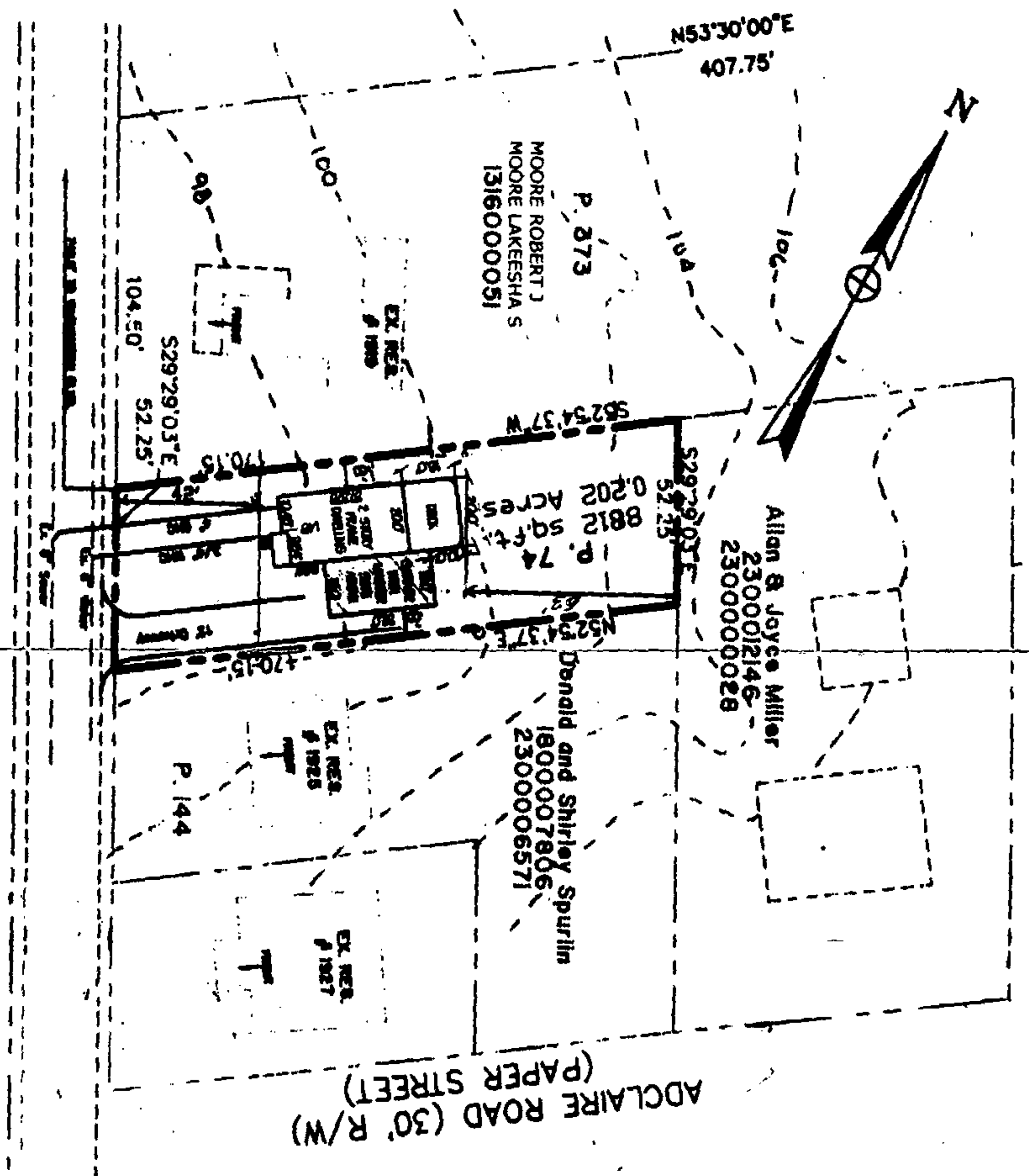
PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

PROPERTY ADDRESS 1921 HALETHORPE AVENUE SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME _____

PLAT BOOK # _____ FOLIO # _____ LOT # _____ SECTION # _____

OWNER TODD W. & JENNIFER R. CHANITZ

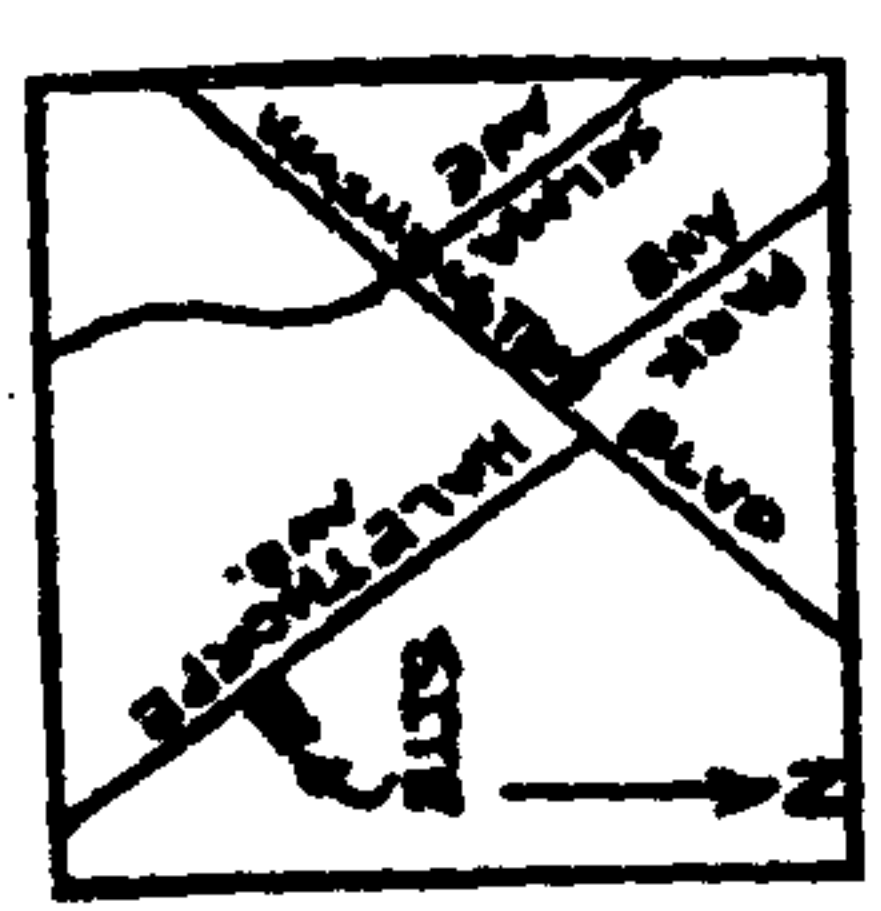


HALETHORPE AVENUE (30' R/W - PUBLIC)



PREPARED BY EDWARD DENT

SCALE OF DRAWING: 1" = 50'



VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 13

COUNCILMANIC DISTRICT 1

1" = 200' SCALE MAP # 108C2

ZONING DR-2

LOT SIZE 8 812
ACREAGE SQUARE FEET

PUBLIC PRIVATE

SEWER

WATER

CHESAPEAKE BAY
CRITICAL AREA

100 YEAR FLOOD PLAIN

HISTORIC PROPERTY/
BUILDING

PRIOR ZONING HEARING 03-008-A

ZONING OFFICE USE ONLY
REVIEWED BY ITEM # CASE #

BR 312 07-312-A