IN RE: **PETITION FOR ADMIN. VARIANCE**	*	BEFORE THE
W/S Greenwood Road, 965′ S of the c/line of West Joppa Road	*	ZONING COMMISSIONER
(530 Greenwood Road)		
9th Election District	*	OF
5th Council District		
	*	BALTIMORE COUNTY
Stanard T. Klinefelter, et ux		
Petitioners	*	**Case No. 07-392-A**

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Administrative Variance filed by the legal owners of the subject property, Stanard T. Klinefelter and his wife, Sarah C. Klinefelter. The Petitioners seek relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed detached accessory structure (barn) to be located in the front yard in lieu of the required rear yard. The subject property and requested relief are more particularly described on the site plan submitted with the petition, a copy of which was accepted into evidence and marked as Petitioners' Exhibit 1.

The petition was filed through the Administrative Variance process, pursuant to Section 32-3-303 of the Baltimore County Code. That section allows an individual to seek variance relief for an owner-occupied residential property without a formal hearing, provided certain conditions are met. First, the property is duly posted and advertised giving public notice of the requested relief. Under the Code, any property owner residing within 1,000 feet of the property in question can request a public hearing within fifteen (15) days of the sign posting, if that person objects to the relief requested. If no hearing is requested, the matter can be considered and an Order issued by the Zoning Commissioner/Deputy Zoning Commissioner based on the documentation contained in the file. While no objections were received from the neighbors, the

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case was set for public hearing by this Zoning Commissioner, *sua sponta,* in view of the past history.[1]

Appearing at the hearing in support of the request were Stanard T. and Sarah C. Klinefelter, property owners. Appearing as Protestants/interested citizens were James A. Frederick, a property owner to the north of the subject property, Ralph H. Ferrell, a property owner to the south of the subject property, Richard Parsons on behalf of the Greater Towson Council of Community Associations, and Kimberly Warren, a member on the Ruxton-Riderwood Improvement Association and a resident of the area.

Testimony and evidence offered revealed that the subject property is an irregular shaped parcel located on the west side of Greenwood Road, just east of Charles Street and south of Joppa Road in Towson. The property contains a gross area of 3.315 acres, more or less, zoned D.R.2 and is improved by a single-family dwelling. The property is a "flag" or "pipe stem" lot, with approximately 40′ of road frontage and the bulk of the acreage located several hundred feet from Greenwood Road. The residence faces north and is perpendicular to the road.

As shown on the site plan, Petitioners seek to place an accessory structure (specifically, a barn measuring 8′x24′x9′) in a small pasture to the north and east of their residence. The purpose of the barn is to house Mrs. Klinefelter's two miniature horses. Testimony described the unique nature of the property, as it is perhaps the largest residential lot east of Charles Street and south of the beltway. The configuration of the lot is such that the residence is perpendicular to Greenwood Road and is surrounded on all sides by the rear yards of adjacent properties. The proposed site of

[1] *See* Case No. 05-225-A involving the same parties and an identical request that was denied in December, 2004 followed by a Motion for Reconsideration, an appeal to the County Board of Appeals (CBA), a Remand from the CBA and ultimately, a Motion for Reconsideration to the CBA in 2006. Following the Board's deliberation but before a written decision was rendered, the Klinefelters amended the site plan relocating the barn to a new location and filed the instant petition.

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the barn was selected because it is on level dry ground and in the shade of a large oak tree, thereby providing a dry environment and shady environment for the miniature horses. There is no portion of the Klinefelters' rear yard that meets these two criteria. The importance of these criteria was the subject of the testimony of Charles C. Fenwick, Jr. in the hearing on a related matter before the County Board of Appeals of Baltimore County (the "Board of Appeals") on March 22, 2006. *See* pp. 62 & 63 of Petitioners' Exhibit 5. Photographs of the site (Petitioners' Exhibits 4A-F) show that there are a large number of mature trees and vegetation surrounding the proposed site. As a result of the trees and vegetation, the barn will be visible only from the residence of F. Gillis and Lynn M. Green, which is due north of the proposed site.

Petitioners presented a written consent from Charles and Molly O'Donovan, adjacent property owners to the northeast of the proposed site (Petitioners' Exhibit 6), and the terms of an agreement between Ralph and Nancy Ferrell, and the Greens, owners of the adjacent property to the south of the Klinefelter property (Petitioners' Exhibits 7 and 8). Under the terms of the agreement, the Ferrells and the Greens consent to the location of the barn provided the conditions in the agreement are filed in the land records by the Klinefelters as restrictive covenants. The Klinefelters have agreed to do so. The conditions set forth in the agreement are such that locating the barn as requested will not adversely impact the health, safety, and general welfare of the surrounding locale. In a letter dated December 12, 2006 to Kathleen C. Bianco, Administrator, County Board of Appeals, James A. Frederick stated "that [he] 'informally' indicated that [he] would not object to the variance should the horse barn be located" in the area for which the Klinefelters are now seeking a variance (Petitioners' Exhibit 3).

Ralph Ferrell testified that he and his wife own the property to the south of the Klinefelters property. Although the Ferrells and the Greens (the owners of the property to the north of the

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proposed site) have concerns about placement of the barn, they have worked with the Petitioners to address those concerns. Mr. Ferrell testified that as long as the conditions set forth in Petitioners' Exhibit 9 are complied with, neither they nor the Greens object to the requested relief.

James A. Frederick testified in opposition to the variance. Mr. Frederick argued that the Klinefelters should be bound by the public deliberation of Board of Appeals on July 2, 2006. In that deliberation, the Board of Appeals indicated that it would deny the Petition for Variance filed by the Klinefelters in 2004 to place the barn in another part of their front yard that is in close proximity to Mr. Frederick's residence. The Board of Appeals has not rendered a written opinion and has stayed that matter pending the outcome of this Petition for Administrative Variance. Mr. Frederick also testified that he is no longer willing to consent to the requested site as the Klinefelters have threatened to institute litigation with regard to a property line dispute.

Kimberly Warren also testified in opposition to the variance, agreeing with Mr. Frederick that the Klinefelters' prior request for a Variance should have been dispositive of the issue and that the Klinefelters are attempting to avoid an adverse result by filing a second request.

In response to the issues raised by the Protestants, Mr. Klinefelter testified that opposition to the prior request had been resolved by the Klinefelters' agreement to relocate the barn away from the Fredrick property to the site requested in this proceeding. However, the Board of Appeals determined that it did not have the authority to grant the variance necessary for the new site[2]. Faced with this procedural dilemma, the Klinefelters were compelled to file this Petition for

[2] Ms. Kimberly Warren and Mr. Frederick questioned the propriety of the instant petition in view of the passage of time and prior to the Board's issuing a written decision. Under Section 501.6, which pertains to appeals to the Board, an appeal shall be heard *de novo*. The Court of Appeals has determined that ... the meaning of the scope of a *de novo* hearing as used in relationship to an appeal heard by the County Board of Appeals, from a decision of the Zoning Commissioner, is that it is restricted to the specific issue or issues resolved by the Commissioner from which an appeal has been taken. *Daihl v. County Board of Appeals*, 258 Md. 157, 163 (1970). The new case with the barn's relocation prevented the Board from addressing these issues not specifically appealed. Ms. Warren and Messrs. Frederick and Parsons, however, believe that to require subsequent proceedings when all facts and concerns are before the Board is administratively inefficient in time and expense.

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By

Administrative Variance. Mr. Klinefelter also testified that he and his wife have no present intention to initiate litigation with the Fredericks over the property line dispute and would prefer to have the dispute resolved by professional engineers.

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. I find that the Petitioners have met the requisite burden imposed upon them by Section 307 of the B.C.Z.R. for variance relief to be granted and that strict compliance with the zoning regulations would be unnecessarily burdensome to them. Keeping miniature horses is a permitted use and failure to grant the Variance would deprive them of a reasonable use of their property. *See Belvoire Farms v. North* 355 Md. 259 (1999). I find that the Klinefelter property is unique in size, shape and the fact that it is surrounded by the rear yards of all of the adjacent properties. The requested site provides a dry, shady area necessary for proper care of the miniature horses and will not have a detrimental impact upon the neighborhood, which is unique in itself. All of the property owners immediately adjacent to the site have consented to the grant of the Variance. Notwithstanding his procedural concerns and the property line dispute with the Klinefelters, Mr. Frederick is on record as not being opposed to the barn being located as requested. As Zoning Commissioner, I have no jurisdiction over property line disputes and do not believe it is pertinent to this proceeding. In my view, the relief requested will not result in any detriment to the health, safety, and general welfare of the surrounding locale and shall therefore be granted. I find that the required finite location of the barn at this new location is appropriate in this instance and within the spirit and intent of the zoning regulations and will not be out of character with the other homes in the area.

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

ORDER RECEIVED FOR FILING
Date 5-29-07
By DW

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County, on this 29th day of May, 2007, that the Petition for Administrative Variance seeking relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed detached accessory structure (barn) to be located in the front yard in lieu of the required rear yard, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1. The Petitioners may apply for their building permit and be granted the 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. The terms of the agreement between the Ferrells, the Greens, and the Petitioners (Petitioners' Exhibit 9) are incorporated herein by reference. At such time as the restrictions are recorded in the Land Records, the rights and remedies of the parties shall be governed solely by such recorded restrictions.

3. The variance relief granted is for the personal use by Stanard and Sarah Klinefelter and shall not run with the land as to enure to the benefit of any subsequent property lessor or owner. At such time as the Klinefelters sell or otherwise transfer their property, they shall remove the stable at their expense and remove the miniature horses.

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, III
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 5-29-07
By DW

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

May 29, 2007

WILLIAM J. WISEMAN III
Zoning Commissioner

Mr. Stanard T. Klinefelter
Ms. Sarah C. Klinefelter
530 Greenwood Road
Towson, Maryland 21204

RE: **PETITION FOR ADMINISTRATIVE VARIANCE**
W/S Greenwood Road, 965' S of the c/line of West Joppa Road
(530 Greenwood Road)
9th Election District - 5th Council District
Stanard T. Klinefelter, et ux - Petitioners
Case No. 07-392-A

Dear Mr. and Mrs. Klinefelter:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Administrative 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: Ralph H. Ferrell, 522 Greenwood Road, Towson, Md. 21204
Jim Frederick, 602 Meadowridge Road, Towson, Md. 21204
Kimberly Warren, 605 Meadowridge Road, Towson, Md. 21204
Dick Parsons, 412 Woodbine Avenue, Towson, Md. 21204
F. Gillis and Lynn M. Green, 600 Meadowridge Road, Towson, Md. 21204
People's Counsel; File

Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at **530 Greenwood Road**

which is presently zoned **DR 2**

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)

Section 400.1

- to permit a proposed detached accessory structure (barn) to be located in the front yard in lieu of the required rear

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):

Stanard T. Klinefelter
Name - Type or Print

Stanard T Klinefelter
Signature

Sarah C. Klinefelter

Sarah C. Klinefelter
Signature

530 Greenwood Road 4105375402
Address — Telephone No.

Ruxton, Maryland 21204
City — State — Zip Code

Representative to be Contacted:

SAME AS ABOVE
Name

Address — Telephone No.

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 this ____ day of _____ that the subject matter of this petition be set for a public hearing, advertised, as required by the regulations of Baltimore County and that the

Zoning Commissioner of Baltimore County

CASE NO 07-392-A **Reviewed By** KP **Date** 3/5/07

REV 10/25/01 ORDER RECEIVED FOR FILING **Estimated Posting Date** 3/18/07

Date 5-29-07

By

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 530 Greenwood Road
Address
Ruxton, MD 21204
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 property is an isolated 3 acre flag lot with small frontage on Greenwood Road. The residence faces north, so that the front yard is perpendicular to Greenwood Road. Petitioners seek a variance to allow placement of a small barn (8' x 24' x 10') (for two (2) miniature horses) in a pasture in the front yard to the east of the residence. Placement of the barn as requested is under a large tree and on relatively flat high ground. This placement will afford adequate shade for the horses in the summer and will not be subject to any flow of water which could render the stalls damp and endanger the health of the animals. There is no area of the rear yard that has similar attributes or is otherwise practical.

This site has been identified to resolve a dispute with James Frederick, who has objected to placement of the barn to the west of the residence. Mr. Frederick is amenable to this variance request, as are Mr. & Mrs. Green, who have approved the proposed site. Petitioners are not aware of any opposition to the request.

Failure to grant the variance will create a hardship to petitioners and will unreasonably prevent them from conducting a permitted use of the property.

The requested relief is within the spirit of the ordinance and public safety and welfare will be maintained.

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.

Stanard T. Klinefelter
Signature

Stanard T. Klinefelter
Name - Type or Print

Sarah C. Klinefelter
Signature

Sarah C. Klinefelter
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 5th day of March, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Stanard T. Klinefelter & Sarah C. Klinefelter the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS **WITNESS** my hand and Notarial Seal

KAREN L. SHIREY
COMMISSION EXPIRES
5-1-2010
HARFORD COUNTY, MD.
NOTARY PUBLIC

Karen L. Shirey
Notary Public

My Commission Expires 5-1-2010

REV 10/25/01

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to the Zoning Commissioner of Baltimore County

for the property located at **530 Greenwood Road**

which is presently zoned **DR 2**

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- to permit a proposed detached accessory structure (barn) to be located in the front yard in lieu of the required rear

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.

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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):

Stanard T. Klinefelter
Name - Type or Print

Signature

Sarah C. Klinefelter

Signature

530 Greenwood Road 4105375402
Address — Telephone No.

Ruxton, Maryland 21204
City — State — Zip Code

Representative to be Contacted:

SAME AS ABOVE
Name

Address — Telephone No.

City — State — Zip Code

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Zoning Commissioner of Baltimore County

CASE NO 07-392-A

Reviewed By RDD Date 3/5/07

Estimated Posting Date 3/18/07

REV 10/25/01

ORDER RECEIVED FOR FILING
Date 5-29-07
By DW

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Ruxton, MD 21204
City State Zip Code

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Failure to grant the variance will create a hardship to petitioners and will unreasonably prevent them from conducting a permitted use of the property.

The requested relief is within the spirit of the ordinance and public safety and welfare will be maintained.

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.

Signature

Stanard T. Klinefelter
Name - Type or Print

Signature

Sarah C. Klinefelter
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 5th day of March, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Sarah C. Klinefelter & Stanard T. Klinefelter the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS **WITNESS** my hand and Notarial Seal

KAREN L. SHIREY
COMMISSION EXPIRES
5-1-2010
HARFORD COUNTY, MD.
NOTARY PUBLIC

Notary Public

My Commission Expires 5-1-2010

REV 10/25/01

Zoning Description for 530 Greenwood Rd

Beginning at a point on the west side of Greenwood Road which is 50 feet wide at a distance of 965 feet (+/-) south of the centerline of the nearest improved intersecting street West Joppa Road which is 70 feet wide. Being lot # 1 in the subdivision of Greenwood Meadows as recorded in Baltimore County Plat Book #65, Folio #94, containing 3.315 acres. Also known as 530 Greenwood Road and located in the 9th Election District, 5th Councilmanic District

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: #07-392-A
530 Greenwood Road
W/side of Greenwood Road,.965 feet +/- south of centerline of W. Joppa Road
9th Election District
5th Councilmanic District
Legal Owner(s): Stanard T. & Sarah C. Klinefelter
Variance: *to permit a proposed detached accessory structure (barn) to be located* in the front yard in lieu of the required rear.

Hearing: Tuesday, May 8, 2007 at 10:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

WILLIAM J. WISEMAN, III
Zoning Commissioner for *Baltimore County*

NOTES: (1) Hearings are *Handicapped Accessible;* for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 4/736 Apr. 24 132785

CERTIFICATE OF PUBLICATION

4/26/, 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 4/24/, 2007.

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

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 24924

DATE 3/5/07 ACCOUNT 001-615-6150

AMOUNT $ 65.00

RECEIVED FROM:

FOR: Zoning hearing case #07-392-A

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
3/07/2007	3/05/2007	15:43:55	2

REG USR2 MATL JEVS JEE
>>RECEIPT # 507628 3/05/2007 OFLU
Dept 5 528 ZONING VERIFICATION
CR NO. 024924
Recpt Tot $65.00
$65.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case No: 07-392-A

Petitioner/Developer:
STANARD KLINEFELTER

Date Of Hearing/Closing: 4/2/07

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

Attention:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property at 530 GREENWOOD RD

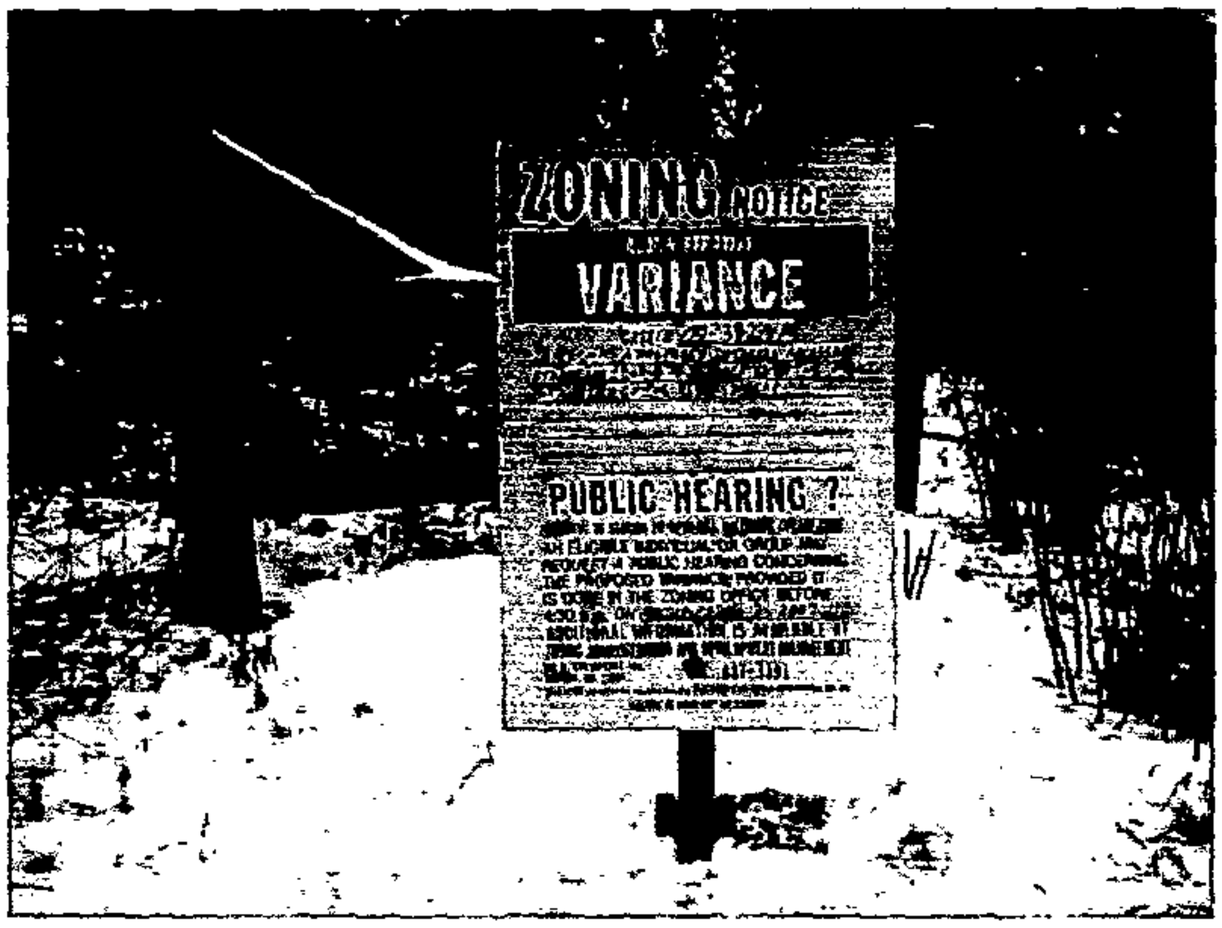
This sign(s) were posted on March 17, 2007.
(Month, Day, Year)

Sincerely,

Martin Ogle 3/17/07
(Signature of sign Poster and Date)

Martin Ogle
Sign Poster
16 Salix Court
Address
Balto. Md 21220
(443-629 3411)

019 (576x432x24b jpeg)



Martin Ogle 3/17/07

BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 07- 392 -A Address 530 Greenwood Rd

Contact Person: David Duvall Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 3/5/07 **Posting Date:** 3/18/07 **Closing Date:** 4/02/07

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- 392 -A Address 530 Greenwood Rd

Petitioner's Name Stanard Klinefelter Telephone 410 537 5402

Posting Date: 3/18/07 **Closing Date:** 4/2/07

Wording for Sign: To Permit a proposed detached accessory structure (barn) to be located in the front yard in lieu of the required rear

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: 07-392-A

Petitioner: Stanard T. Klinefelter

Address or Location: 530 Greenwood Rd

PLEASE FORWARD ADVERTISING BILL TO:

Name: Stanard T. Klinefelter

Address: 530 Greenwood Rd
Ruxton Md
21204

Telephone Number: 410 537 5402

Revised 7/11/05 - SCJ

26K4

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

April 10, 2007

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

NOTICE OF ZONING HEARING

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

CASE NUMBER: 07-392-A
530 Greenwood Road
W/side of Greenwood Road, 965 feet +/- south of centerline of W. Joppa Road
9th Election District – 5th Councilmanic District
Legal Owners: Stanard T. & Sarah C. Klinefelter

Variance to permit a proposed detached accessory structure (barn) to be located in the front yard in lieu of the required rear.

Hearing: Tuesday, May 8, 2007 at 10:00 a.m in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco

Timothy Kotroco
Director

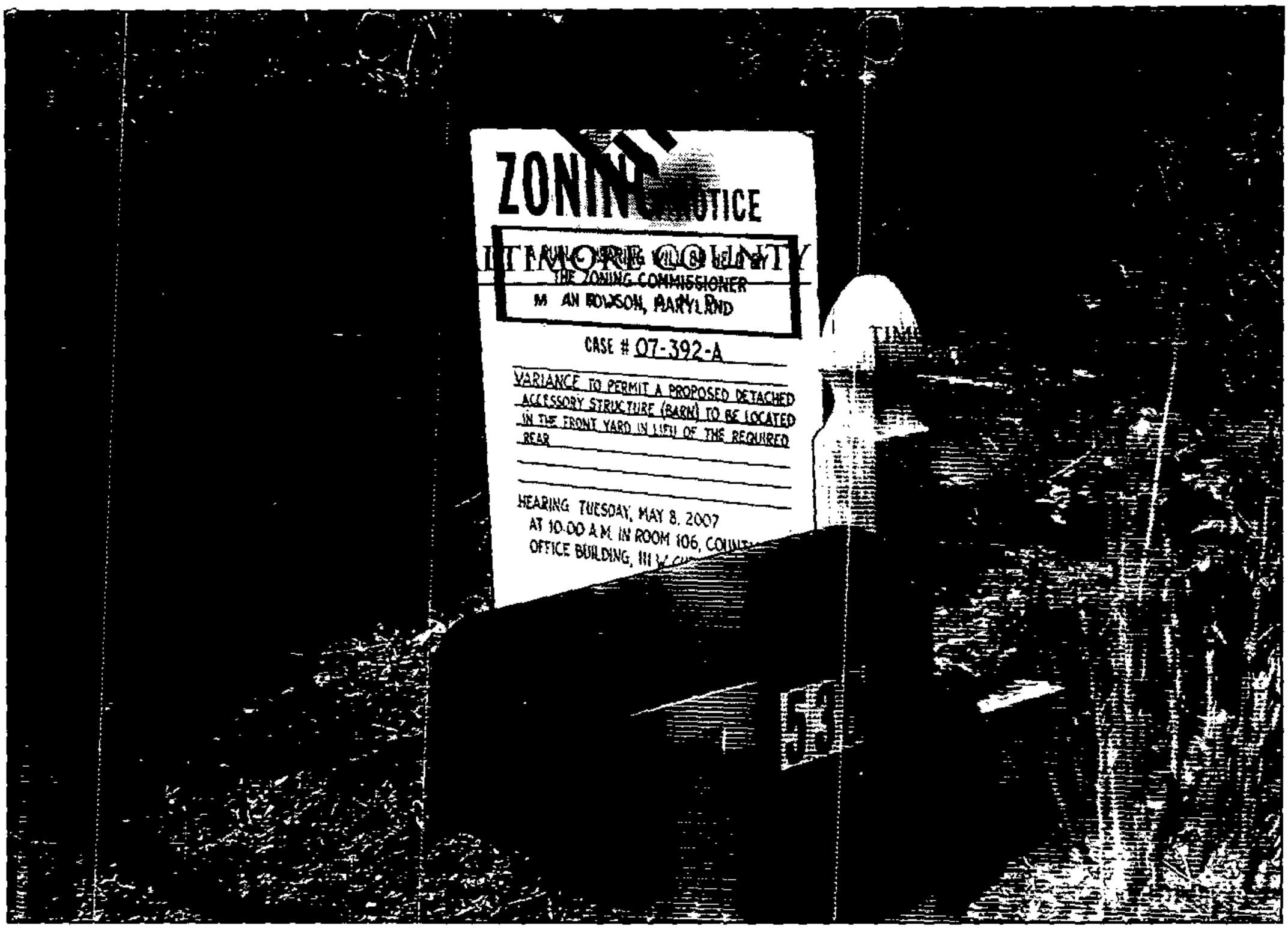
TK:klm

C: Mr. & Mrs. Klinefelter, 530 Greenwood Road, Ruxton 21204
James Frederick, 602 Meadowridge Road, Towson 21204

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, APRIL 23, 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.

posted- 4/20/07 @ 10:10 AM. JRA

1 photo



530 Greenwood Rd.

posted 4-20-07 @ 10:10 AM

JRA

OT ✓ (attached)

The Directors ✓ (attached)

Posting ✓

Notice ✓

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

April 10, 2007

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TO: PATUXENT PUBLISHING COMPANY
Tuesday, April 24, 2007 Issue - Jeffersonian

Please forward billing to:
Deborah Kendall-Sipple
Permits & Development Management
111 West Chesapeake Avenue
Towson, MD 21204

410-887-3353

NOTICE OF ZONING HEARING

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Hearing: Tuesday, May 8, 2007 at 10:00 a.m in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

April 2, 2007

Stanard T., Klinefelter
Sarah C. Klinefelter
530 Greenwood Road
Ruxton, Maryland 21204

Dear Mr. and Mrs. Klinefelter:

RE: Case Number: 07-392-A, 530 Greenwood Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on March 5, 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.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel

Martin O'Malley, *Governor*
Anthony Brown, *Lt. Governor*

SHA
Driven to Excel
State Highway Administration
Maryland Department of Transportation

John D. Porcari, *Secretary Designate*
Neil J. Pedersen, *Administrator*

Date: March 15, 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. 7-392-A
530 Greenwood Road
Klinefelter 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. 7-392 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,

Michael P. Bailey

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

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

March 15, 2007

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

ATTENTION: Zoning Review planners

Distribution Meeting of: March 19, 2007

Item No.: 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 405, 406, 407, 408, 409.

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.

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

Acting Lieutenant Don W. Muddiman
Fire Marshal's Office
(O)410-887-4880
MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: March 19, 2007

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

SUBJECT: Zoning Advisory Committee Meeting
For March 26, 2007
Item Nos. 07-389, 390, 391, 392, 393, 394, 399, 400, 401, 402, 403, 404, 405 and 408

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

DAK:CEN:cab
cc: File
ZAC-NO COMMENTS-03262007.doc

BW
5-8-07

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED
MAY 0 9 2007
BY:_____

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination JWL

DATE: May 9, 2007

SUBJECT: Zoning Item # 07-392-A
Address 530 Greenwood Road
(Klinefelter Property)

Zoning Advisory Committee Meeting of March 19, 2007

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

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

_X_ 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: Michael S. Kulis Date: 4/23/07

S:\Devcoord\1 ZAC-Zoning Petitions\ZAC 2007\ZAC 07-392-A.doc

Patricia Zook - Fwd: Case 07-392-A @ 530 Greenwood (an administrative variance)

From: Patricia Zook
To: Matthews, Kristen
Date: 4/2/2007 11:53:07 AM
Subject: Fwd: Case 07-392-A @ 530 Greenwood (an administrative variance)

Hi Kristen -

Please see my earlier e-mail message regarding this case. In the list of admin variance cases that came over for April 2, this case was listed. However, Bill called for a hearing on this case.

Thanks for your help.

Patti Zook
Baltimore County
Office of the Zoning Commissioner
410-887-3868
pzook@baltimorecountymd.gov

Kristen

Patricia Zook - Fwd: Case 07-392-A @ 530 Greenwood (an administrative variance)

From: Patricia Zook
To: Matthews, Kristen
Date: 4/2/2007 11:53:07 AM
Subject: Fwd: Case 07-392-A @ 530 Greenwood (an administrative variance)

Hi Kristen -

This is to let you know that Bill has called for a formal hearing for the above-referenced administrative variance request. The new request (07-392-A) is very similar to the request in case 05-225-A (which was a variance not an administrative variance) and was denied and appealed to the Board of Appeals. The BOA did not render a decision as the Petitioner was trying to work something out with the neighbors and Peoples Counsel. The Petitioner was instructed to return to zoning and ask for the same thing as in case 05-225-A.

Now there is a new case, 07-392-A, which closes on April 2. In light of the proposal's history and a conversation with Carole Demilio, this case should be scheduled for a public hearing, advertised and reposted. Case 07-392-A should be assigned to Bill.

Please notify the below-listed individuals of the public hearing. They attended the hearing or provided comments for case 05-225-A.

James Frederick, 602 Meadowridge Road, Towson, MD 21204
Nancy Horst, 7819 Ellenham Avenue, Towson, MD 21204
Jamie Cahn, 1819 Thornton Ridge Road, Towson, MD 21204
Charles O'Donovan, 600 Greenwood Road, Towson, MD 21204
Richard Parsons, 412 Woodbine Avenue, Towson, MD 21204

Thanks for your help, Kristen.

Patti Zook
Baltimore County
Office of the Zoning Commissioner
410-887-3868
pzook@baltimorecountymd.gov

BW

(07-392-A)

Bill Wiseman - 530 Greenwood Road - Klinefelter

From: "Frederick, James (USAMD)" <James.Frederick2@usdoj.gov>
To: <wwiseman@co.ba.md.us>
Date: 04/03/07 4:13 PM
Subject: 530 Greenwood Road - Klinefelter

Mr. Wiseman:
This will simply confirm my conversation with your kind assistant, Patty, yesterday afternoon. I am of the understanding that your office has requested a public hearing with regard to the latest filing related to this property and thus I will not be making my own request (the closing date was April 2).

Thank you.

James A. Frederick
602 Meadowridge Road
Towson, Maryland 21204
H.(410) 825-0127
Home E-mail: frederick131@comcast.net
W.(410) 209-4857
Work E-mail: james.frederick2@usdoj.gov

Kristen Matthews - Case 07-392-A @ 530 Greenwood (an administrative variance)

From: Patricia Zook
To: Matthews, Kristen
Date: 3/21/2007 9:44:29 AM
Subject: Case 07-392-A @ 530 Greenwood (an administrative variance)
CC: Counsel, People's; Wiley, Debra; Wiseman, Bill

Hi Kristen -

This is to let you know that Bill has called for a formal hearing for the above-referenced administrative variance request. The new request (07-392-A) is very similar to the request in case 05-225-A (which was a variance not an administrative variance) and was denied and appealed to the Board of Appeals. The BOA did not render a decision as the Petitioner was trying to work something out with the neighbors and Peoples Counsel. The Petitioner was instructed to return to zoning and ask for the same thing as in case 05-225-A.

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Jamie Cahn, 1819 Thornton Ridge Road, Towson, MD 21204

Charles O'Donovan, 600 Greenwood Road, Towson, MD 21204

Richard Parsons, 412 Woodbine Avenue, Towson, MD 21204

Thanks for your help, Kristen.

Patti Zook
Baltimore County
Office of the Zoning Commissioner
410-887-3868
pzook@baltimorecountymd.gov

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: April 23, 2007

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

SUBJECT: 530 Greenwood Road

INFORMATION:

Item Number: 7-392

Petitioner: Sara Klinefelter

Zoning: DR 2

Requested Action: **Administrative Variance**

SUMMARY OF RECOMMENDATIONS:

After visiting the subject property and reviewing the petitioner's site plan and accompanying request, the Office of Planning is of the opinion that there is adequate rear yard area to place the proposed accessory structure. In a previous case for the subject property (5-225) the petitioner made a similar request and due to the fact that there is adequate rear yard area the request was denied.

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

Reviewed by: _____

Division Chief: _____
AFK/LL: CM

W:\DEVREV\ZAC\7-392.doc

RECEIVED
APR 27 2007
07-700
DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

April 10, 2007

Stanard T. Klinefelter
Sarah C. Klinefelter
530 Greenwood Road
Ruxton, MD 21204

Dear Mr. & Mrs. Klinefelter:

RE: Demand for Public Hearing, Administrative Variance, Case Number: 07-392-A

The purpose of this letter is to officially notify you that your administrative posting procedure has been superceded by a timely public hearing demand or the zoning commissioner is requiring a public hearing concerning the above-proposed administrative procedure.

The hearing has been scheduled, and attached is the notice of public hearing indicating the date, time and location of the hearing. This notice will also contain the date that the sign must be reposted with the hearing information.

The property will be reposted with the hearing date, time and location. This notification will be published in the Jeffersonian and this office will be billed directly by Patuxent Publishing for this.

If you need any further explanation or additional information, please feel free to contact David Duvall at 410-887-3391.

Very truly yours,

W. Carl Richards, Jr.
Supervisor
Zoning Review

WCR:klm

C: James Frederick, 602 Meadowridge Road, Towson 21204

IN RE: **PETITION FOR VARIANCE** W/S Greenwood Road, 965' S of the c/l Joppa Road **(530 Greenwood Road)** 9th Election District 5th Council District Stanard T. Klinefelter, et ux Petitioners	* * * * * *	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 05-225-A

* * * * * * * * * * *

ORDER ON JOINT MOTION FOR REMAND

This matter comes before this Zoning Commissioner on a Joint Motion for Remand, pursuant to the Order issued by the Baltimore County Board of Appeals on November 10, 2005.

By way of background, this matter came before this Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, Stanard T. Klinefelter and his wife, Sarah C. Klinefelter. The Petitioners sought relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a detached accessory structure (existing barn/stable) to be located in the front yard in lieu of the required rear yard, in accordance with the site plan submitted and marked as Petitioner's Exhibit 1.

At the public hearing held on December 15, 2004, the Petitioners/property owners, Stanard and Sarah Klinefelter, appeared, as did several Protestants from the area, including James Frederick and Charles O'Donovan, adjacent property owners, and Nancy Horst and Jamie Cahn, both members of the Ruxton-Riderwood Improvement Association.

Testimony and evidence offered at the hearing indicated that the barn, which had been constructed without benefit of a permit, needed to remain where located to better serve the Petitioners' miniature ponies, and that to require its relocation would result in a practical difficulty and unreasonable hardship for the Petitioners. The Protestants testified that the stable-like structure was a nuisance to the adjacent neighbor and could be relocated elsewhere on the property in compliance with the zoning regulations.

By Order dated December 29, 2004, I concurred with the argument presented by the Protestants and ordered that the barn be relocated to the rear yard of the property, in compliance with the B.C.Z.R. A timely Motion for Reconsideration filed by the Petitioners on January 24, 2005 was subsequently denied by this Zoning Commissioner on February 23, 2005. Thereafter, an appeal was filed to the Board of Appeals on March 25, 2005.

The Board convened for a public hearing on the scheduled date of November 2, 2005 at which time Counsel for the Petitioners, Robert A. Hoffman, Esquire, indicated the Petitioners' intent to modify the Petition for Variance. By agreement, the Protestants and Counsel for the Petitioners requested that the matter be remanded to the Zoning Commissioner for further proceedings. Subsequently, by letter dated November 11, 2005, Counsel for the Petitioners requested the Petition for Variance be amended to request similar relief as set forth above, "***if necessary***." Essentially, the Petitioners request a finding from this Zoning Commissioner as to whether a variance from Section 400.1 of the B.C.Z.R. is required. The amended relief sought can best be appreciated by reviewing the expanded view and photographs of Petitioners' property, which was collectively submitted and accepted into evidence as Remand Exhibit 2.

At the remand hearing held before the undersigned on December 19, 2005, the Petitioners appeared along with their attorney, Robert Hoffman, Esquire. Also present were Bruce E. Doak, the Surveyor who prepared the site plan, and Charles Fenwick, an expert horseman. Appearing as Protestants were James Frederick, an adjacent neighbor and community spokesperson, Nancy Horst and Jamie Cahn, who appeared on behalf of the Ruxton-Riderwood Community Association, and Dick Parsons, who is Chairman of the Zoning Committee for the West Towson Neighborhood Association.

As a preliminary matter, Mr. Frederick argued that the amended request as filed is not consistent with the Petitioners' previous position and should not be allowed as it is subject to the doctrine of judicial estoppel. (See WinMark, Ltd. P'Ship v. Miles & Stockbridge, 345 Md. 614, 693 A2d, 824 (1997) and Kramer v. Globe Brewing Company, 175 Md. 461, 2A2d, 634 (1938).

Mr. Hoffman countered by pointing out that the Petitioners were induced to file the original Petition for Variance at the behest of the Department of Permits and Development Management and did not do so voluntarily. At the conclusion of hearing Counsel's arguments, Mr. Frederick's Motion was denied.

The Court of Special Appeals in its decision of Vogel v. Touhey, 151 Md. App. 682, 828 A2d 268 (2003) clearly stated "The doctrine of judicial estoppel does not always foreclose a party from asserting a position that is inconsistent with one previously adopted in a prior proceeding; judicial estoppel is inapplicable unless the party had, or was charged with, full knowledge of the facts and another will be prejudiced by his action."

At issue in the instant case is the fact that the Petitioners constructed a small barn in the front yard of their property to house their two miniature horses. As is often the case in determining the intent of the legislature and difficult legal issues, the facts are relatively simple and largely not in dispute. The Petitioners now argue that the subject property meets the definition of a "farm" as set forth in Section 101 of the B.C.Z.R., and as such, a variance for the barn structure is not necessary. Much to the Klinefelter's disappointment, I disagree. Although the Petitioners' ponies and barn constitute an "associated agricultural use" of the subject property, I find that the barn structure is not really a farm building, as contemplated in Section 400.1 of the B.C.Z.R. and that variance relief is necessary. I explain.

Section 101 of the B.C.Z.R. defines a farm as "Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses." The term "agriculture" is defined in Webster's Third New International Dictionary as including the raising of livestock and husbandry farming. The Klinefelters' property at 530 Greenwood Road consists of 3.315 acres zoned D.R.2, and the Petitioners propose to house their two pet miniature ponies on the site.

A farm is a use permitted by right in D.R. zones (see Section 1B01.1.A.7). Prior to the enactment of Counsel Bill No. 51-1993, the B.C.Z.R. offered two definitions for farms and

two additional definitions, which described different types of farms. In Section 100 of the B.C.Z.R., a definition for small farms between 3 and 10 acres, which are either commercial or non-commercial operations, was included. The definition of "farmette" included a livestock ratio table, which was intended to control animal waste, pollution and over-grazing on small lots. The farmette definition contained a table similar to the table currently found in Section 100.6 of the B.C.Z.R.; however, the farmette definition was deleted from the current regulations at the request of the County Council and the Baltimore County Planning Board. Their initial approach proposed to redefine the "farmette" as a residential use with accessory, non-commercial agricultural activities and label it "hobby farm." When this issue was discussed with representatives from different farm industries, it became apparent that many small-scale operators considered themselves farmers, including some who only farm on a part-time basis. Several of the farmers objected to the "hobby farm" definition, arguing that it was too ambivalent and that it denigrated their efforts in operating "legitimate" farm businesses.

After taking into consideration that the 1988 Agricultural Committee recommended deletion of the farmette definition in its report to the County Council, staff decided to follow this advice and attempts at replacing farmette with a "hobby farm" definition were abandoned. Instead of providing separate definitions for commercial and non-commercial farms, or large and small-scale farms, Baltimore County's zoning regulations would rely on only one farm definition. The primary determinant in deciding whether an operation is a farm would be the criteria used by the State for assessment purposes. Residential properties with accessory farm uses would be subject to the livestock ratio table noted above. This livestock ratio table, which had been part of the farmette definition serving to regulate livestock, was retained for all lots with accessory agricultural activities. The Department of Agriculture at the University of Maryland designed the animal per acre ratio and the Planning Board staff recommended only minor changes to its provisions. Thus, the new Section 100.6 of the B.C.Z.R. grants the Petitioners the right to use their tract of land, which is not a commercial agricultural operation,

for the accessory stabling and pasturing of animals, subject to the ratios set forth therein. As shown on Petitioner's Exhibit 2, 1.4 acres of fenced pastureland is available and therefore, two "small livestock" animals per acre are allowed.

It is clear from the legislative history of what is now Section 100.6 of the B.C.Z.R. that there was no intent to substantially modify the prior farmette definition. The issue at hand in this case is not whether this is a farm or that the Petitioners have a right to pasture ponies on their property, but whether the Klinefelters' barn achieves the status of a farm building as provided for in the regulations.

The legal factor in this analysis is whether or not the County Council intended to exempt the structures on these limited farms (Section 100.6) from the special regulations of Article 4. There is little doubt that the council intended to exempt large farms, such as Sagamore Farms, from these regulations, given its vast pastures and facilities, which reasonably could be scattered over the entire farm. I do not agree however with the broad interpretation argued by the Petitioners and their experts that the Council intended to release from the regulations a property for which its principle use is for a dwelling. According to the pertinent portion of Section 400.1 of the B.C.Z.R., "accessory buildings in residential zones, ***other than farm buildings (Section 404)*** shall be located only in the rear yard and shall occupy no more than 40% thereof..."

In ascertaining the County Council's intent, I must look to the language in the regulation itself, giving that language its ordinary and natural meaning and avoiding a construction that is illogical or unreasonable or inconsistent with common sense. The words "other than farm buildings (Section 404)" clearly refers to buildings used in agricultural operations. I am not persuaded that the Council intended by its enactment of Bill No. 51-1993 to exempt a 3-acre parcel of land devoted primarily to a single-family residence with associated agricultural uses from the special regulation provisions of Section 400.1. Thus, I find the Petitioners' barn/stable is subject to the zoning regulations.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this _____ day of January 2006 that a variance is necessary from Section 400.1 of the B.C.Z.R., and as such, the Petition for Variance 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 hereof.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

cc: Robert A. Hoffman, Esquire, Venable, LLP
210 Allegheny Avenue, Towson, Md. 21204
Mr. & Mrs. Stanard T. Klinefelter
530 Greenwood Road, Towson, Md. 21204
Mr. James Frederick
602 Meadowridge Road, Towson, Md. 21204
Ms. Nancy Horst, 7819 Ellenham Avenue, Towson, Md. 21204
Mr. Jamie Cahn, 1819 Thornton Ridge Road, Towson, Md. 21204
Mr. Charles O'Donovan, 600 Greenwood Road, Towson, Md. 21204
Mr. Richard Parsons, 412 Woodbine Avenue, Towson, Md. 21204
Code Enforcement Division, DPDM; People's Counsel; Case File

IN RE: PETITION FOR VARIANCE W/S Greenwood Road, 965' S of the c/l Joppa Road **(530 Greenwood Road)** 9th Election District 5th Council District Stanard T. Klinefelter, et ux Petitioners	* * * * * *	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 05-225-A

* * * * * * * * * * *

ORDER ON THE MOTION FOR RECONSIDERATION

WHEREAS, this matter came before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, Stanard T. Klinefelter and his wife, Sarah C. Klinefelter. The Petitioners sought relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a detached accessory structure (existing barn/stable) to be located in the front yard in lieu of the required rear yard, in accordance with the site plan submitted and marked into evidence as Petitioner's Exhibit 1.

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Testimony and evidence offered at the hearing indicated that the barn, which had been constructed without benefit of a permit, needed to remain where located to better serve the Petitioners' miniature ponies, and that to require its relocation would result in a practical difficulty and unreasonable hardship for the Petitioners. The Protestants testified that the stable-like structure was a nuisance to the adjacent neighbor and could be relocated elsewhere on the property in compliance with the zoning regulations, away from adjacent residences.

By Order dated December 29, 2004, I concurred with the argument presented by the Protestants. As noted within my Opinion, this is a large lot and it appears that sufficient area exists in the rear of the property where the building could be located to lessen its impact upon the

neighbors and still provide a comfortable environment for their ponies. Thus, I ordered that the barn be relocated in compliance with the B.C.Z.R. within 120 days of the date thereof.

By letter dated January 24, 2005, a timely Motion for Reconsideration was filed by the Petitioners. Within their Motion, the Petitioners argued that the only other feasible location for placement of the barn was in the north end of their property where the horses and the structure would actually be more visible to the neighbors.

After due consideration of the representations made within the Motion, I am not convinced that the accessory structure cannot be moved to another location on the property that would meet the needs of its occupants and be in compliance with the zoning regulations. As noted in my earlier opinion, this is a large parcel with a substantial rear yard area. I am certain that a more suitable location on the property can be found.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this _____ day of February 2005 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 hereof.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

cc: Mr. & Mrs. Stanard T. Klinefelter
530 Greenwood Road, Towson, Md. 21204
Mr. James Frederick
602 Meadowridge Road, Towson, Md. 21204
Ms. Nancy Horst, 7819 Ellenham Avenue, Towson, Md. 21204
Mr. Jamie Cahn, 1819 Thornton Ridge Road, Towson, Md. 21204
Mr. Charles O'Donovan, 600 Greenwood Road, Towson, Md. 21204
Mr. Richard Parsons, 412 Woodbine Avenue, Towson, Md. 21204
Code Enforcement Division, DPDM; People's Counsel; Case File

IN RE: PETITION FOR VARIANCE W/S Greenwood Road, 965' S of the c/l Joppa Road **(530 Greenwood Road)** 9th Election District 5th Council District Stanard T. Klinefelter, et ux Petitioners	* * * * * *	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 05-225-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, Stanard T. Klinefelter and his wife, Sarah C. Klinefelter. The Petitioners request a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a detached accessory structure (barn) to be located in the front yard in lieu of the required rear yard. 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 Stanard and Sarah Klinefelter, property owners. Appearing as Protestants/interested citizens were James Frederick and Charles O'Donovan, adjacent property owners, and Nancy Horst and Jamie Cahn, both members of the Ruxton-Riderwood Improvement Association and residents of the area.

Testimony and evidence offered revealed that the subject property is an irregular shaped parcel located on the west side of Greenwood Road, just east of Charles Street and south of Joppa Road in Towson. The property contains a gross area of 3.315 acres, more or less, zoned D.R.2, and is improved with a single-family dwelling. Also existing on the property is an accessory structure, 8' x 29' x 9' in dimension, which is identified on the plan as a "barn." It is this structure which is the subject of the instant request, which was filed in response to a complaint registered with the Code Enforcement Division of the Department of Permits and Development

Management relative to the use of the structure. In this regard, upon investigation of the complaint by a Code Inspector, it was determined that a variance was needed due to the building's location in the front yard of the subject property.

Testimony and evidence offered revealed that the Petitioners have owned and resided on the property for the past 12 years. Mrs. Klinefelter testified that she has had a love of horses since she was 9 years of age and decided that she would like to have miniature ponies for pets. Apparently, the Petitioners recently constructed a stable-like building in the front, northwest corner of their yard to house the ponies. In addition, a stockade fence encloses the structure into the rear yard of the subject property. Testimony indicated that the barn was constructed where located so that the horses would have a sufficient amount of shade since they are in the barn for most of the day. It was indicated that the horses are out of the barn 12 hours a day during the summer months and 4 to 6 hours during the winter. Photographs of the site show that there are a number of large mature trees and vegetation in that area of the property. Mrs. Klinefelter indicated that other areas of the property were considered; however, the rear yard is uneven and slopes downward and is completely shaded. To the east of the driveway is a large field; however, there is no shade in that location and the structure would be more visible from the road. The Petitioners argued that the present location of the structure is the most practical in that its visibility is obstructed by existing vegetation and affords the ponies a sufficient amount of shade in the summer, yet provides warmth during the winter. Mrs. Klinefelter indicated that she cares for the ponies and regularly cleans the stable. Apparently all old hay and manure is taken to the far southern end of the property to minimize any offensive odors that might occur for the neighbors. Due to the location of the structure in the front yard, the requested variance is necessary.

Mr. James Frederick appeared and testified in opposition to the request. He is vehemently opposed to the location of the structure, which is clearly visible from his property. He submitted photographs, which show that the structure is located in close proximity to his children's play area. Mr. Frederick finds the view and obnoxious odors offensive, and believes that the Petitioners should be required to relocate the building in accordance with the regulations. In this

regard, he suggested that the stable be placed in the southwest corner of the subject property, opposite open space owned by the Greenwood Meadow Association.

Ms. Nancy Horst testified on behalf of the Ruxton-Riderwood Community Association. She indicated that the Petitioners were the authors of their own misfortune since they did not apply for the requisite building permit and that the community was not in favor of the variance.

Mr. Jamie Cahn testified serves on the Zoning Enforcement Committee of the Ruxton-Riderwood Community Association. He believes that this was a clear violation of the regulations and that there were alternative sites on the Klinefelter property that would be more appropriate.

In response to the issues raised by the Protestants, Mr. Klinefelter testified that he believes the placement of the structure where located is appropriate in that its view is sufficiently buffered by existing trees and vegetation. He indicated that its location is most appropriate for the health and wellbeing of the ponies and that a practical difficulty would result if required to relocate the structure elsewhere on his property. He further argued that its location is not unsightly and does not adversely impact the health, safety or general welfare of the community.

After due consideration of the testimony and evidence presented, I am persuaded to deny the requested relief. I find that the Petitioners have not met the burden imposed upon them by Section 307 of the B.C.Z.R. for variance relief to be granted and that strict compliance with the zoning regulations will not be unnecessarily burdensome. As noted above, this is a large lot and it appears that sufficient area exists in the rear of the property where the building could be located to lessen its impact upon the neighbors and still provide a comfortable environment for their ponies. Moreover, it is clear that the neighbors find the location of the shed to be offensive and that a grant of the variance would have a detrimental impact upon the neighborhood. For all of these reasons, the relief requested must be denied.

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 denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this _____ day of December 2004 that the Petition for Variance seeking relief from Section 400.1

of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a detached accessory structure (shed) to be located in the front yard in lieu of the required rear yard, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petitioner shall have 120 days from the date of this Order to relocate the accessory structure in accordance with the zoning regulations.

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

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

PLEASE PRINT CLEARLY

CASE NAME
CASE NUMBER
DATE

PETITIONER'S SIGN-IN SHEET

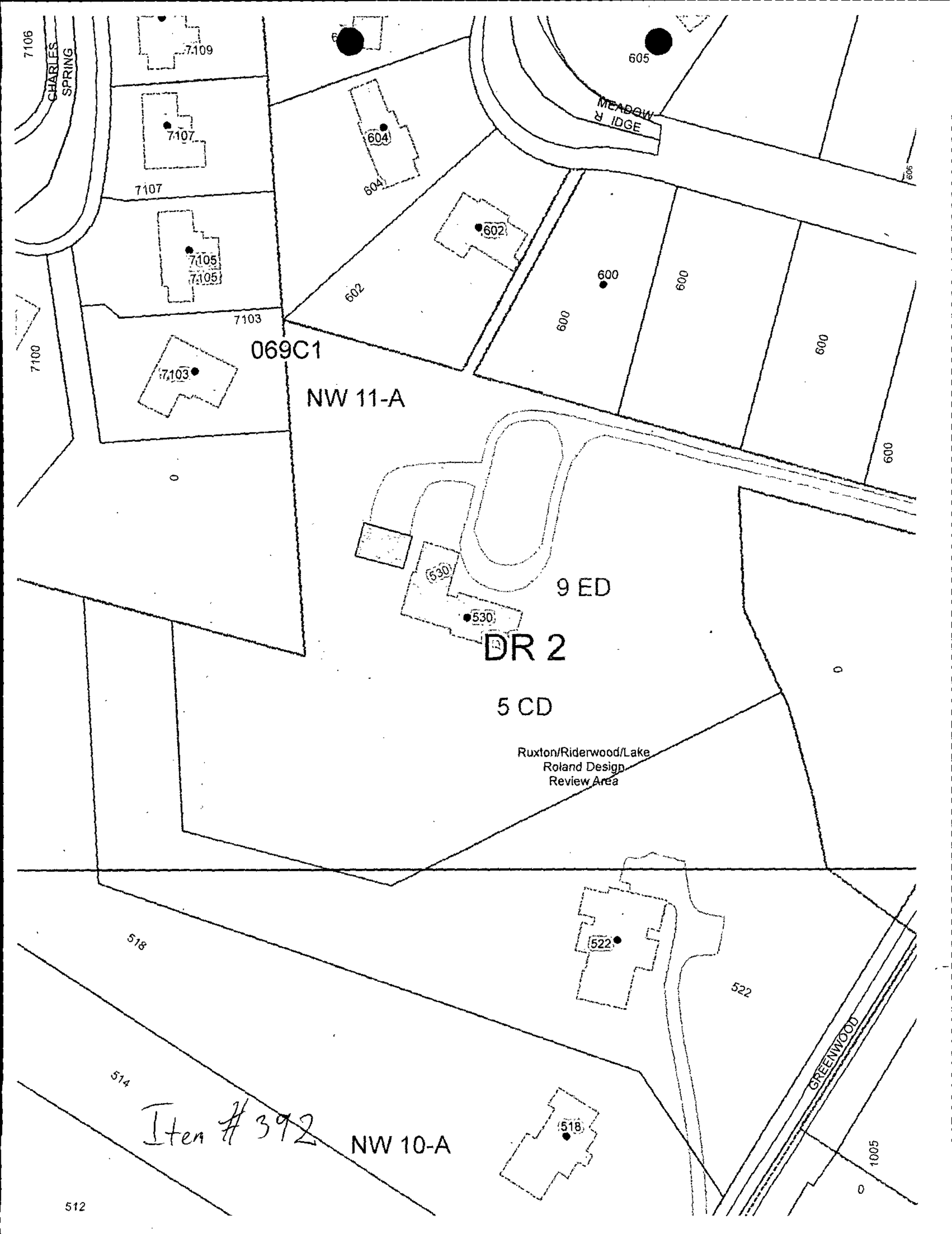
NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Sarah Kleinfelter	530 Greenwood Rd.	Towson, MD 21204	
Stanard Kleinfelter	" " "	" " "	
Ralph H. Ferrell	522 Greenwood Road	Towson, MD 21204	Ferrellassoc@comcast.net

PLEASE PRINT CLEARLY

CASE NAME_____
CASE NUMBER_____
DATE_____

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Jim Frederick	602 Meadowridge Rd	Towson MD 21204	FREDZNICK.131@COMCAST.NET
Kimberly Warren	605 Meadowridge Rd	Towson Md 21204	Kimberlywarren2@aol.com
Dick Parsons	412 Woodbine Ave	Towson MD 21204	RPARSONS@BCPL.net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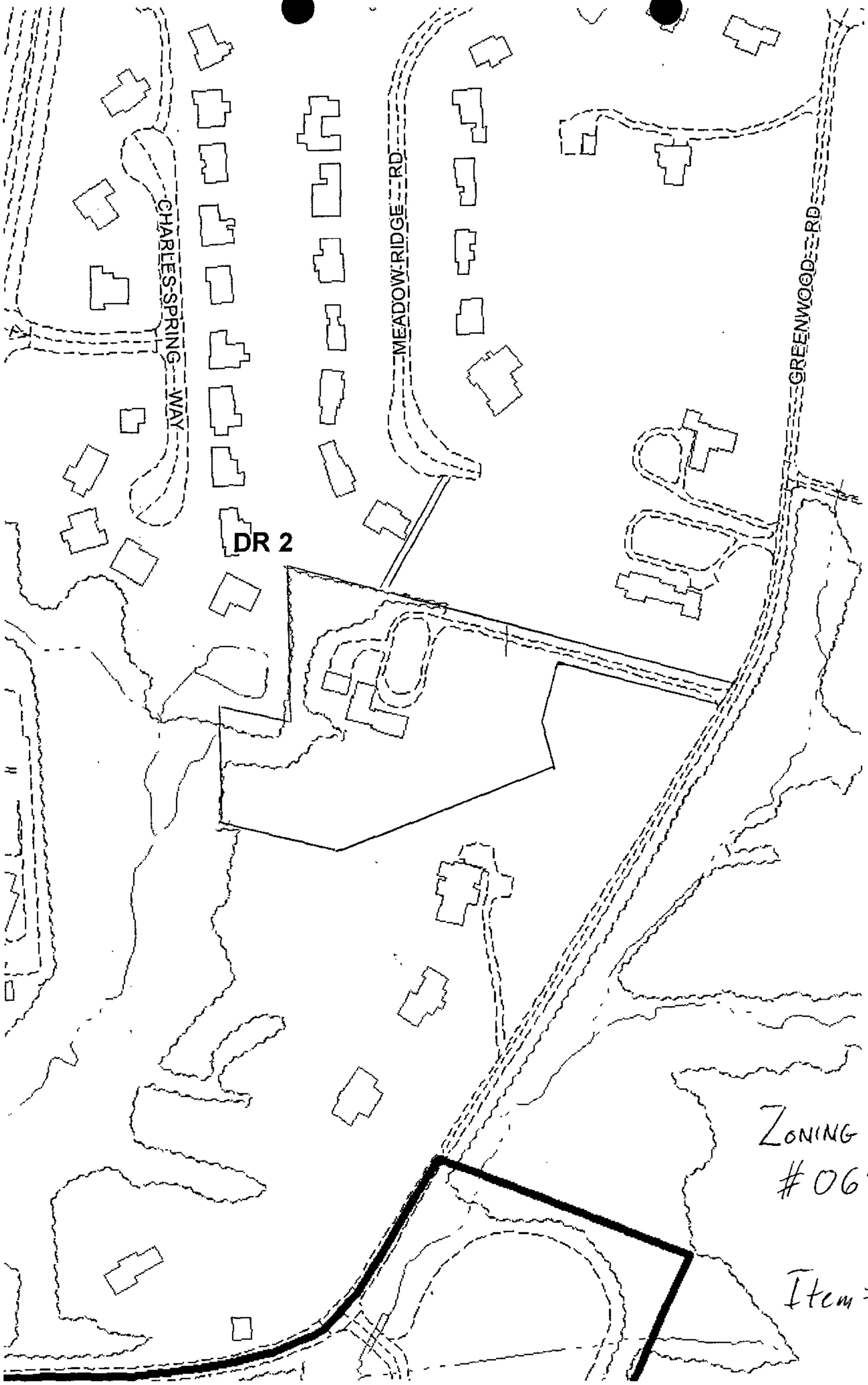
CHARLES SPRING
7109
605
MEADOW RIDGE
7107
604
604
7107
602
7105
7105
602
600
600
600
7103
069C1
7100
7103
NW 11-A
600
600
530
530
9 ED
DR 2
5 CD
Ruxton/Riderwood/Lake
Roland Design
Review Area
518
522
522
GREENWOOD
514
518
1005
0
512
NW 10-A

Item # 392



Zoning Map
#069C1

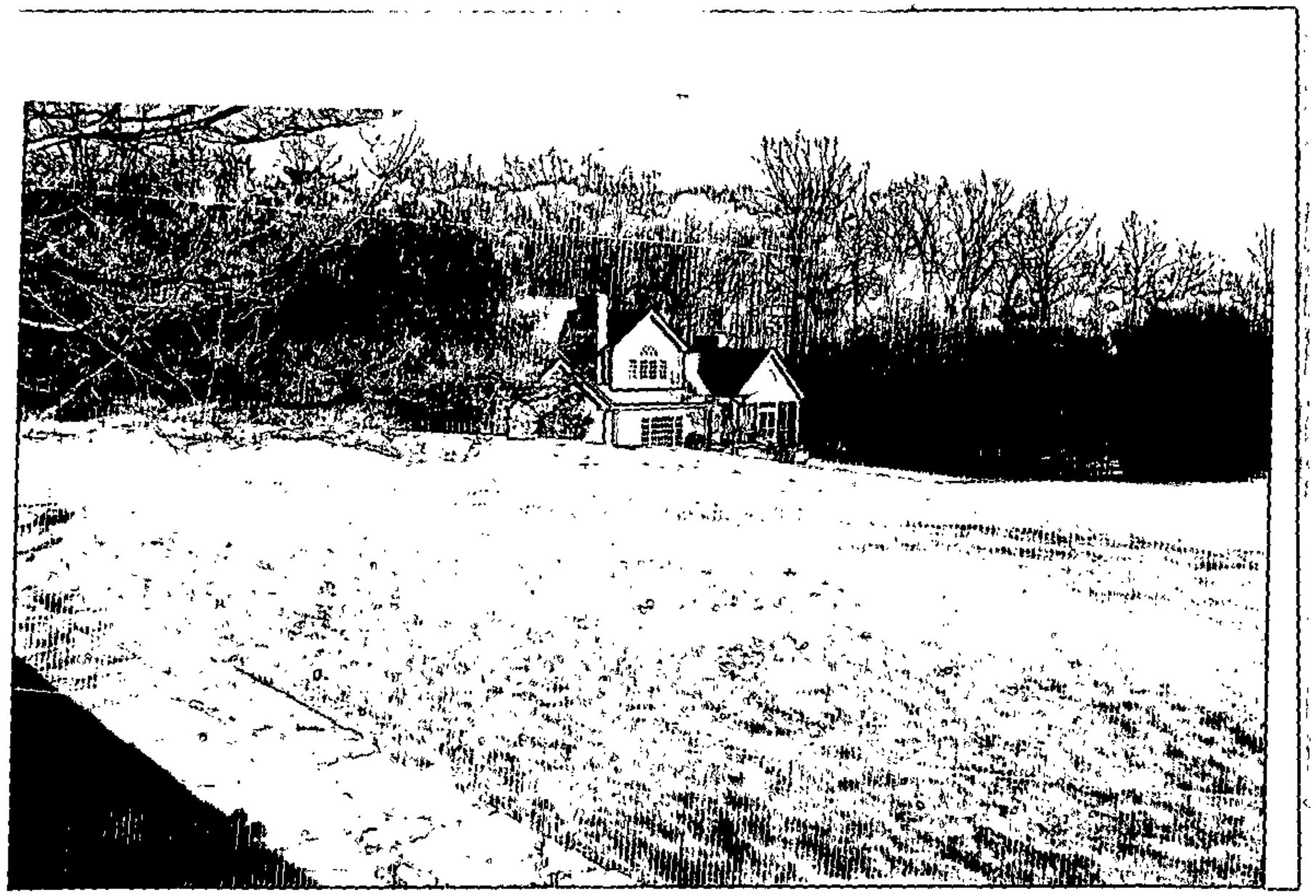
Item # 392

BARN

SOUTHWEST

Item # 392

KLINEFELTER 07-392-A



SOUTHEAST FROM REAR WALL
NO SHADE - HILLY

Item # 392

KLINEFELTER 07-392-A

BARN

SOUTHWEST TOWARDS HOUSE

Item # 392

KLINEFELTER 07-392-A

BARN

NORTHEAST FROM HOUSE

Item # 392

KLINEFELTER 07-392-A

BARN

NORTHWEST FROM SOUTHEAST CORNER

Item # 392

KLINEFELTER 07-392-A

BARN

SOUTH - FROM NORTH BOUNDARY / DRIVEWAY

Item # 392

KLINEFELTER 07-392-A

Case No.: 07-392-A

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	REVISED AND AMENDED SITE PLAN	
No. 2	MOTION FOR RECONSIDERATION TO BRD OF APPEALS -05-225A	
No. 3	JAMES FREDERICK'S LETTER CONSENTING TO NEW LOCATION 12-12-06	
No. 4	PHOTOGRAPH LOCATION PLAT 4/A [illegible]	
No. 5	TRANSCRIPT OF HEARING BEFORE THE BOARD OF APPEALS 3-22-06	
No. 6	ODONOVAN LETTER OF NO OBJECTION	
No. 7	FERRELL LETTER AND PROPOSED COVENANTS	
No. 8	GREEN LETTER WITH COVENANTS	
No. 9	APPROVED COVENANTS BY THE PARTIES	
No. 10		
No. 11		
No. 12		

IN THE MATTER OF STANARD T. AND SARAH KLINEFELTER, PETITION FOR VARIANCE FOR PROPERTY LOCATED ON THE W/S GREENWOOD 965' S OF THE C/L JOPPA ROAD (530 Greenwood Road)	* * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
5th Councilmanic District 9th Election District	* *	Case No. 05-225-A

* * * * * * * * *

MOTION FOR RECONSIDERATION AND REHEARING OR REMAND

Appellants/Petitioners Stanard and Sarah Klinefelter ("the Klinefelters"), by Robert A. Hoffman with Venable LLP, their attorney, in accordance with Rule 10 of the Rules of Practice and Procedure of the County Board of Appeals, submits this Motion for Reconsideration and Rehearing or Remand and, in support thereof, states, as follows:

1. The Klinefelters filed an appeal with this Board from the Zoning Commissioner of Baltimore County's decision to deny their Petition for Variance. Specifically, the Klinefelters sought approval for an accessory structure to be located in their front yard rather than in the rear yard as required by Section 400.1 of the Baltimore County Zoning Regulations (BCZR). The structure in question is a small stable for their miniature horses. Alternatively, the Klinefelters contended that their property and the uses thereon qualify as a "farm" under the definition contained in BCZR Section 101 and that the stable is a farm building not subject to the rear yard restriction contained in Section 400.1. In addition to denying the variance, the Zoning Commissioner rejected

PETITIONER'S
EXHIBIT NO. 2

this argument.

2. On appeal before the Board, neighboring property owner James Frederick appeared in opposition to the Klinefelters' zoning request, which was heard *de novo* by the Board. Mr. Frederick complained about the location of the barn being in close proximity to his rear property line.

3. In this hearing, the Klinefelters called witnesses and put on evidence in an effort to demonstrate that their property is a "farm" and, as such, no variance was necessary to place the stable for their horses in their front yard. The Klinefelters also called witnesses and put on evidence to demonstrate that their property has unique and special features that would result in a practical difficulty for them if required to strictly comply with the Zoning Regulations pertaining to the placement of accessory structures, and, thus, were entitled to a variance.

4. The Board has conducted public deliberation on this matter, but has not issued its written order. Having given due consideration to Mr. Frederick's complaints, the Klinefelters wish to explore the possibility of moving the barn to a different location on the opposite side of their front yard. This new location would place the barn much further away from Mr. Frederick's property line.

5. As the Board of Appeals has not yet issued its written opinion, the Klinefelters are asking the Board to reconsider this matter and either schedule a rehearing before the Board or remand this matter back to the Zoning Commissioner for a hearing on this alternate location. If the Board grants the reconsideration, the Klinefelters would be requesting permission to revise their Petition for Variance to reflect a new proposed

location. The Klinefelters would, of course, be responsible for re-advertising/reposting the property and attend a public hearing on the revised relief.

WHEREFORE, The Klinefelters respectfully requests that the Board of Appeals reconsider this matter and either schedule a rehearing before the Board or remand it to the Zoning Commissioner of Baltimore County for a new hearing.

Respectfully submitted,

ROBERT A. HOFFMAN
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21285-5517
(410) 494-6200
Attorney for Mr. and Mrs. Klinefelter

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21ST day of November, 2006, a copy of the foregoing MOTION FOR RECONSIDERATION AND REHEARING OR REMAND was mailed to Peter M. Zimmerman, Esquire, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204, and to James A. Frederick, Esquire, 602 Meadowridge Road, Towson, Maryland 21204, Protestant.

ROBERT A. HOFFMAN

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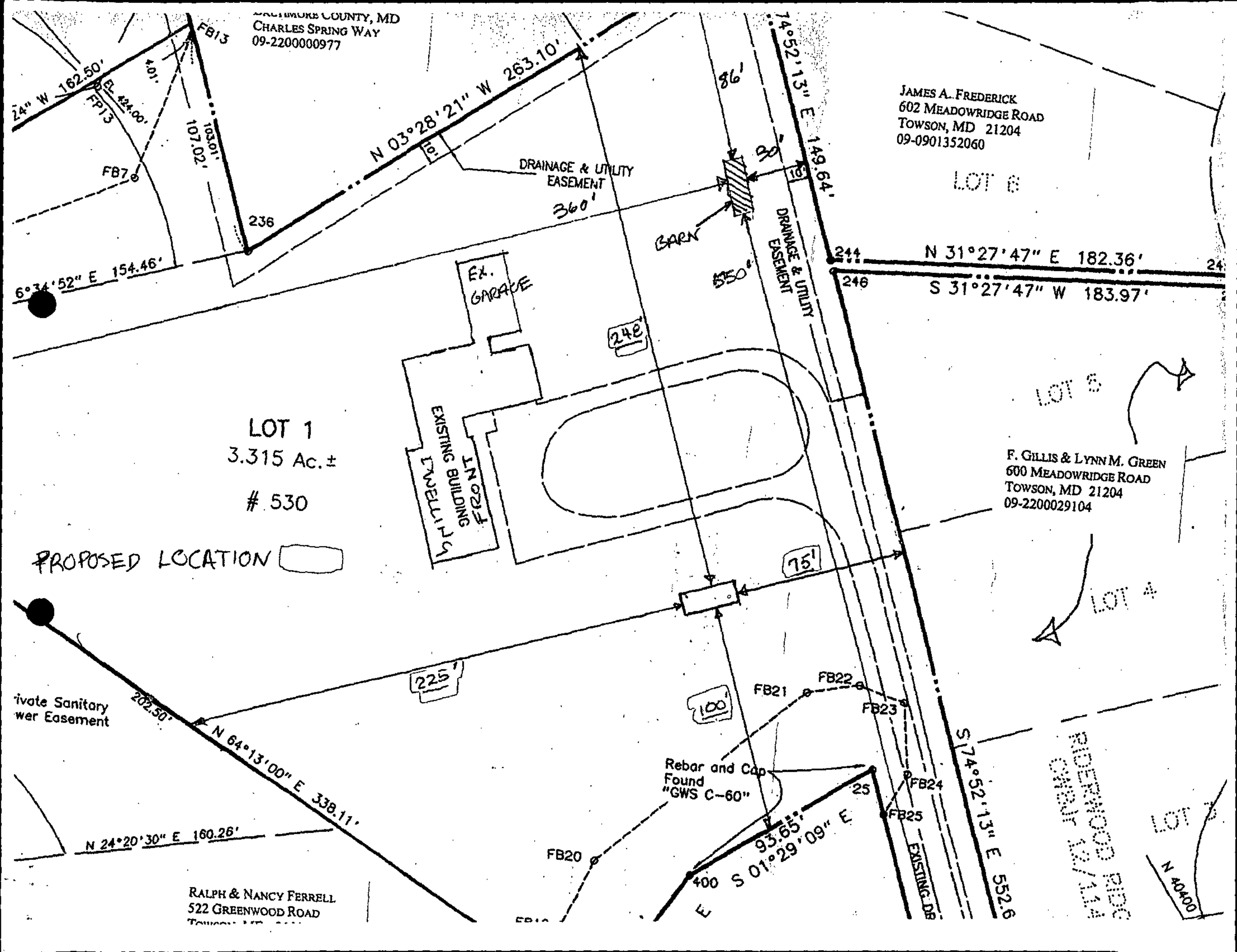
BALTIMORE COUNTY, MD
CHARLES SPRING WAY
09-2200000977
FB13
24" W 162.50'
4.01'
FP13
424.00'
103.01'
107.02'
FB7
N 03°28'21" W 263.10'
10'
DRAINAGE & UTILITY EASEMENT
360'
236
6°34'52" E 154.46'
86'
74°52'13" E 149.64'
90'
10'
BARN
DRAINAGE & UTILITY EASEMENT
JAMES A. FREDERICK
602 MEADOWRIDGE ROAD
TOWSON, MD 21204
09-0901352060
LOT 6
244
N 31°27'47" E 182.36'
246
S 31°27'47" W 183.97'
EX. GARAGE
350'
248'
LOT 5
LOT 1
3.315 Ac.±
530
EXISTING BUILDING
FRONT
F. GILLIS & LYNN M. GREEN
600 MEADOWRIDGE ROAD
TOWSON, MD 21204
09-2200029104
PROPOSED LOCATION
75'
LOT 4
225'
100'
FB21
FB22
FB23
ivate Sanitary
wer Easement
202.50'
N 64°13'00" E 338.11'
Rebar and Cap Found "GWS C-60"
25
FB24
FB25
93.65'
S 01°29'09" E
S 74°52'13" E 552.6
EXISTING DR
LOT 3
N 40400
N 24°20'30" E 160.26'
FB20
400
RALPH & NANCY FERRELL
522 GREENWOOD ROAD

James A. Frederick
602 Meadowridge Road
Towson, Maryland 21204

December 12, 2006

VIA FACSIMILE (410) 887-3182
Kathleen C. Bianco
Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: In the Matter of: Stanard T. and Susan Klinefelter
Case No. 05-225-A

Dear Ms. Bianco:

I am in receipt of the Motion for Rehearing or Remand filed by the Klinefelters in the connection with the above-referenced matter. Please accept this letter as a clarification of my position.

The motion accurately states that I have "informally" indicated that I would not object to the variance should the horse barn be located as is now being proposed. However, should this Board grant the variance rather than remand the matter to the Zoning Commissioner, I request that the grant of the variance be specifically conditioned on the Klinefelters locating the barn at the currently specified location (that is the location specified in their motion). I would oppose and object to a variance that does not contain such a restriction.

Thank you.

Very truly yours,

James A. Frederick

JAF/tbs
cc: Robert Hoffman, Esquire (via Facsimile) (410) 821-0147

PETITIONER'S
EXHIBIT NO. 3

IN THE MATTER OF:	* BEFORE THE
STANARD T. & SUSAN FLEINFELTER	* BALTIMORE COUNTY
Legal Owners/Petitioners	* BOARD OF APPEALS
530 Greenwood Road	* CASE No. 05-225-A
9th Election District	* March 22, 2006.
5th Councilmanic District	*

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County, at 400 Washington Avenue, Towson, Maryland 21204, at 10 o'clock a.m, March 22, 2006.

* * * * *

PETITIONER'S EXHIBIT NO. 5

Reported by:

1 C.E. Peatt
2 BOARD MEMBERS:
3
4 LAWRENC STAHL, WESCOTT, Chairman
5 MICHAEL MOHLER
6 WENDELL GRIER
7
8
9
10 APPEARANCES:
ROBERT A. HOFFMAN, Esquire
11 On behalf of Appellants/Petitioners
12 JAMES FREDERICK, Esquire
13 Pro Se
14
15
16
17
18
19
20
21

1 PROCEEDINGS
2 * * * * *
3 THE CHAIRMAN: Good morning, everyone. We're
4 here in the regular meeting of the County Board of Appeals
5 for Baltimore County. Today is the 22nd of March 2006.
6 This is in the matter 05-225-A, which is the case of
7 Stanard T. and Susan Kleinfelter, legal
8 owners/petitioners, 530 Greenwood Road, in the 9th
9 Election and 5th Councilmanic Districts. We're here
10 rising originally out of a December 29, 2004 Zoning
11 Commissioner's order in which variance relief was denied,
12 and a February 23, '05 order on a Motion for Consideration
13 in which that motion was also denied. Counsel, will you,
14 please, for the record.
15 MR. HOFFMAN: Yes. Rob Hoffman, representing
16 the Kleinfelders as petitioners.
17 MR. FREDERICK: Good morning, sir. I'm one of
18 the objectors of the complainants. My name is Jim
19 Frederick, and I'm also an attorney. So that's who I am.
20 THE CHAIRMAN: You're just representing yourself?
21 MR. FREDERICK: Myself.

1 THE CHAIRMAN: First order of business. I have
2 received, as I'm sure you gentleman have, a letter dated
3 March 9, 2006, from Pete Zimmerman, who is the People's
4 Counsel for Baltimore County.
5 He raises a procedural issue. I'm not going to
6 address myself to his comments as to the substantive
7 issues because, you know, that's in essence a conclusion
8 on his part and, certainly, he's entitled to his opinion.
9 You know, if we get that far, we'll see how far,
10 we'll see how the case evidence will dictate what we
11 determine. He did make one procedural point, and just for
12 the record, I would respond to it on behalf of the panel.
13 In essence, the question is was the failure to
14 file a separate appellate document, an appeal of the most
15 recent Zoning Commissioner event which was the result of a
16 remand from us, something that would then bar petitioners
17 from coming forward at this point.
18 I think it's very clear, and I speak on behalf of
19 the unanimous Board, that the reason that parties were
20 back at the Zoning Commissioner was because we
21 specifically, having had the case properly appealed and

1 brought before us, remanded it to the Zoning Commissioner,
2 even set a date certain for the parties to come back,
3 either to move forward, depending on what happened at the
4 Zoning Commissioner, or to dismiss, and do whatever would
5 have been necessary to do as a result of that.
6 Therefore, simply because we moved the case up
7 and down, if you will, of the beaurocracy system in terms
8 of trying to reach a resolution, we don't consider that a
9 new matter. It's simply part and parcel of the same
10 matter.
11 Petitioners have filed their appeal. This is
12 simply the elongated version of how you get through this
13 appeal.
14 We do not feel that an additional filing was
15 necessary and, therefore, today's hearing is proper and
16 appropriate, and pursuant to what we have done.
17 Having said that, and for the record, Mr.
18 Zimmerman did not file a formal motion, which is why I
19 just sort of gave our opinion, without asking you
20 gentlemen to respond to it here in open hearing. So that
21 being the case, and with those comments on the record, I

1 guess the next order of business would be for one of you
2 to officially let us know what happened on the remand and
3 where we stand today and what's going to go on.
4 MR. HOFFMAN: I guess I can do it. The Zoning
5 Commissioner on the issue of whether this building, which
6 is on the Kleinfelter property, would qualify as a farm
7 building and, therefore, the relief requested would be
8 moot, was denied. I guess that's the short version.
9 THE CHAIRMAN: Which is exactly where you were
10 before?
11 MR. HOFFMAN: Well, it's essentially still at the
12 same place.
13 THE CHAIRMAN: So we are now in the posture of
14 the petitioners, have been turned down by the Zoning
15 Commissioner, you're now here on your de novo appeal?
16 MR. HOFFMAN: It's our obligation to go first. I
17 would just go ahead and call my first witness.
18 THE CHAIRMAN: Mr. Frederick, is there any
19 comments you want to make?
20 MR. FREDERICK: The thing, I was sitting here
21 thinking, for the record purposes, I will join in sort of

1 the issue, the objection, and the procedural issue that
2 was raised by Mr. Zimmerman.
3 THE CHAIRMAN: Whatever it is that Mr. Zimmerman
4 called it, what he just did?
5 MR. FREDERICK: Exactly. I understand the issue,
6 and I understand the Board's ruling, so I join in it, for
7 the record. With that, we can go ahead and Rob can get
8 started.
9 THE CHAIRMAN: The record will so reflect
10 MR. HOFFMAN: Mr. Kleinfelter.
11 STANARD KLEINFELTER,
12 having been called as a witness, was duly sworn, and
13 testified as follows:
14 DIRECT EXAMINATION
15 BY MR. HOFFMAN:
16 Q. Mr. Kleinfelter, could you state your full name
17 and your address, for the record, please.
18 A. Stanard Kleinfelter, 530 Greenwood Road, Towson
19 21204.
20 Q. You live there with Terry your wife, who's here
21 today?

1 A. I do.
2 MR. HOFFMAN: If it's okay with the Board and all
3 right with you, if I could start marking some exhibits.
4 THE CHAIRMAN: For identification?
5 MR. HOFFMAN: I'm going to ask if it's acceptable
6 to go ahead and enter them as exhibits. Mr. Doak is here
7 as the surveyor.
8 THE CHAIRMAN: As long as there's no objection,
9 you want to put something in.
10 MR. HOFFMAN: I was going to put in the plan that
11 was filed below.
12 THE CHAIRMAN: We have to give them CBA numbers.
13 MR. HOFFMAN: Petitioners' No. 1, and for the
14 record, it's the plat of Greenwood Meadows. It's the site
15 plan that was filed in this case. It was marked below as
16 Petitioners' No. 1 in Case No. 225.
17 THE CHAIRMAN: Do me a favor. As you use the
18 exhibits from there, simply put CBA number whatever, it
19 is, in case they are looking at the transcript, and
20 they'll be able to figure it out.
21 MR. HOFFMAN: This document will be CBA No. 1,

1 and it's written right above where it says Petitioners'
2 Exhibit No. 1 below. And there was another exhibit below
3 that Mr. Kleinfelter may be referring to. It was also
4 prepared by Mr. Doak. It was Petitioners' Exhibit No. 2
5 THE CHAIRMAN: That will be CBA No. 2.
6 MR. HOFFMAN: I'd like to submit that as CBA No.
7 2, and Mr. Doak will be testifying.
8 MR. MOHLER: The pictures and map?
9 MR. HOFFMAN: CBA No. 2 also includes the site
10 plan as part of the exhibit package.
11 Q. Mr. Kleinfelter, if you would, first describe the
12 property. Just tell the Board where the house is located,
13 where the property is located.
14 A. Greenwood Road is probably a mile west of Towson
15 before you get to Charles Street. It's a very rural road,
16 considering it's within the beltway. We own about three
17 acres, 3.3, I think, on a flag lot that runs basically
18 west off of Greenwood Road, towards Charles Street, and we
19 have a house there that was the main house for a larger
20 parcel which was subdivided back in 1992 and '93.
21 Q. If you could just come up to Petitioners' No. 1,

1 there's a location map on here. I'll try and speed this
2 part up. If you see the location map, Joppa road, we are
3 over here in Towson. Joppa Road as you're heading west.
4 You go past Chestnut Road, and then Blakehurst Convent and
5 Blakehurst Life Care facility is on the south side of
6 Joppa Road, and you continue along Joppa Road and you will
7 hit Greenwood Road, which is at the far end or the western
8 end of the Blakehurst retirement community.
9 If you were to take a left on Greenwood Road and
10 travel down, it can't be more than about a thousand feet,
11 1500 feet on Greenwood Road, you would have a driveway on
12 your right, and that would be the Kleinfelter residence
13 right there.
14 A. What is marked site here, it's actually the whole
15 sixteen acres that was subdivided. That's not what we
16 have left of the property. This piece right here is
17 what's left.
18 Q. Which is labeled lot number one?
19 A. Yes.
20 Q. Stan, if you could, just describe what structures
21 are on the property, currently.

1 A. There's a main house, which is stone, two-story
2 house with an attached garage. The house faces north. The
3 rear of it is to the south and opens to a large common
4 area that was part of the subdivision.
5 The only other structure built on the property is
6 a prefabricated stable that we had brought in July of 2004
7 that's eight by twenty-four, basically three,
8 eight-by-eight rooms that are divided up. It's made of
9 oak, and is made specifically for horses.
10 Q. Those structures that you describe, there were
11 some photographs that were entered into evidence below.
12 I'd like you to just run through these photographs and
13 tell the Board what they describe.
14 THE CHAIRMAN: Tell you what? Why don't we give
15 them an exhibit number, A, B, C, whatever they are, and he
16 can then refer to them.
17 MR. HOFFMAN: It would be 3A through --
18 THE CHAIRMAN: Give him all the pictures. Let
19 him mark them. And then you can just hand them back as
20 you talk about them.
21 Q. 3A is what?

1 A. 3A is just a front view of the house. This is
2 looking south.
3 Q. 3B?
4 A. This is looking southeast. It's a photograph of
5 the garage, and the main house sort of behind that.
6 Q. 3C?
7 A. 3C is the structure I referred to earlier, the
8 stable. This would have been taken in the fall of 2004
9 before it was painted. And the little spec in the middle
10 is the horse.
11 Q. 3D?
12 A. This is another view of the same structure taken
13 from the front of our garage looking northwest.
14 Q. 3E?
15 A. This is looking up somewhat of a grade at the
16 back side of our garage. This is looking from south –
17 south to north.
18 Q. And F, 3F?
19 A. These are the two miniature horses that we have
20 on the place.
21 Q. The miniature horses that are in photograph 3F,

1 tell the Board, please, about the miniature horses, why
2 you have them, how you ended up with the barn structure
3 and the location that it's in now.
4 A. My wife expressed a desire a couple years ago to
5 have these horses. She's grown up with horses. And we
6 investigated and found that our property was large enough
7 to meet the legal requirements to have the horses, at
8 least in our view.
9 And my wife investigated whatever you need to do
10 to find out whether you can have horses on a property of
11 thus size in this location, and we went ahead and acquired
12 them. Before acquiring them, you have to have a place to
13 put them, so we had to fence an area of the property. And
14 the last thing we needed before we could actually have
15 them delivered was the stable, and that was delivered in
16 early July of 2004, as I recall.
17 Q. Now, is that a prefabricated structure?
18 A. Yes. It was made by a firm in Pennsylvania, and
19 they put it on a big flatbed truck. It's like one of
20 those trucks that they tow cars with. It has a flatbed
21 that raises up and drops down. And then they basically

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1 put it wherever they are going to install it.
2 Q. In terms of the location of the stable structure,
3 why was it located in that particular spot?
4 A. Well, it's what we viewed as our back yard.
5 Obviously, that's an issue, but it's what we viewed as our
6 back yard.
7 It was also the right place to do it in the sense
8 that it is on one of the higher points, if not the highest
9 point on our property, which slopes from north to south.
10 It also is in the shade. There are trees around it and
11 over it, which is important for -- well, it's important
12 for the horses in terms of shade in the summertime, and it
13 also faces the south, which in the wintertime is important
14 so that there's sun and warmth on the building, which is
15 not heated in the wintertime.
16 So that seemed to be the ideal place to do it.
17 And given the nature of what that whole part of our
18 property backs up to, it seemed like the right place to
19 put it.
20 Q. Did you take some additional photographs of the
21 area near the stable?

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1 A. Yes, I did.
2 MR. HOFFMAN: If I could ask these be marked 4A
3 through C.
4 Q. You said that where the stable is located, it
5 backs up to other back yards. If you could describe 4A,
6 where it was taken from, and what it shows in that regard?
7 A. This is actually – it's a little bit of sequence
8 to them.
9 Q. However you want to do it.
10 A. It's not that important. 4B, if you walk out the
11 front door of our house and walk about fifteen feet and
12 take a photograph, turning a little bit to the west, this
13 is the view of what we see, which is the back of Mr.
14 Frederick's house. And if you sort of proceed in that --
15 in that same direction of the first photograph --
16 MR. MOHLER: That's out your front door?
17 THE WITNESS: That's out my front door.
18 Q. Keep walking towards Mr. Frederick's house.
19 A. This is a closer view basically of 4A. I don't
20 know.
21 Q. I'm sorry. That's a closer view of 4B?

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1 A. 4B. I'm sorry. If you stand where I took 4A
2 from and turn due west and look and see where the stable
3 is and the property behind it, that's what 4C is.
4 Q. Mr. Kleinfelter, in those back yards that abut
5 yours, or from the zoning standpoint is your front yard,
6 are there accessory structures in those rear yards?
7 A. Yes. I haven't taken an inventory, but virtually
8 all of them have one shed or another.
9 Q. Mr. Kleinfelter, in terms of the delivery of the
10 prefabricated structure, were you aware when you asked to
11 have, or when you purchased it and asked to have it
12 delivered, were you aware at that time that there was a
13 permit that would be needed for the structure itself?
14 A. I was not.
15 Q. I'd like to move on to another question. I think
16 you can refer to the tax map. If you can come up and
17 refer to CBA Exhibit No. 2, which includes the copy of the
18 tax map, map 69 for your neighborhood, the properties that
19 surround your property, are any of those other residential
20 properties, to your knowledge, over three acres?
21 A. No.

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1 Q. Would any of those other properties have the
2 ability to have any agricultural use since they are under
3 three acres, as far as you know, under the regulations?
4 A. As far as I know, no.
5 Q. So would you say that your property, therefore,
6 would be unique in the neighborhood in that regard?
7 A. Oh, yes, it is.
8 Q. Can you describe why you placed the stable where
9 it's currently located?
10 A. It provides sun in the summer. It's on the high
11 side of the property.
12 Q. Can you add anymore detail about why those things
13 are important for the horses?
14 A. I can. I'm really not an expert on it, but I
15 have learned that they need to be in a dry environment.
16 They can't be in an area that is periodically or
17 perpetually wet. It gets into their hooves and creates
18 some sort of malady or problem for them.
19 I found that they also, somewhat to my surprise,
20 need to be in their stable sixteen to twenty hours a day,
21 partly because if they are outside near grass, they will

1 eat it, and they will eat it and they will eat it and eat
2 it. So, for their own good, you have to keep them in the
3 stable.
4 And in the summertime, that means that they have
5 to be in a cool place. The stable has to be in a cool
6 place. Otherwise, it's a hot box. And similarly in the
7 wintertime, even though the grass doesn't grow much, if
8 they're out there, they will try to eat the grass. So
9 they need to be in a stable in the wintertime also because
10 it's cold and for their protection. So I've learned that
11 bit about horses.
12 And when we look back on it, we put it there
13 because it seemed to make common sense, rather than any
14 expertise that I had, anyway, but it is really the only
15 place on our property that meets those criteria.
16 Q. If you would, do you believe that there would be
17 any adverse impact or is there any adverse impact on any
18 of your neighbors, including Mr. Frederick, by virtue of
19 having this structure located where it is?
20 MR. FREDERICK: I will object. It's speculation.
21 THE CHAIRMAN: Well, he can tell us. I mean, he

1 can't give us a definitive list. He can give us, as the
2 landowner, next to a landowner, if he believes what he has
3 done has any residual effect, in his opinion. He can't
4 get into your head or anyone else's. Go ahead.
5 A. I don't believe there is. In fact, if the stable
6 is there as opposed to being on another place on our
7 property, I think our neighbors would prefer to have the
8 stable there.
9 Why do I say that? Because if the horses have to
10 be in the shade, which they could be if they were under
11 the trees and fenced in under the trees, they would be
12 there for long periods of time and their manure would be
13 on the ground there. When they are in the stable, they
14 obviously, whatever manure they generate, is in the
15 stable. And my wife has, as part of our marital agreement
16 to have the horses, is charged with the responsibility of
17 doing that. And, indeed, she does that twice a day. So
18 she removes the manure twice a day.
19 So if I were a neighbor, I believe I would prefer
20 to have a stable there and that kept clean, than I would
21 to have the animals kept in the shade, which they need to

1 be for their health, and also they have to be partitioned
2 off, because they will go out and eat the grass if you
3 don't partition them off. So from that point of view, I
4 would prefer it. It is another building to look at, and I
5 suppose people always prefer not to look at buildings, if
6 they can avoid doing so.
7 I've also wondered whether if it was a shed for a
8 lawn tractor or something, whether we would have had the
9 proceedings that we have had to go through. I think it's
10 as much the use of the barn as it is, or the stable as it
11 is. I am frankly impressed with how much care my wife
12 takes of the stable in terms of keeping flies out and all
13 the other things you think of. These are not very big
14 animals. So that's the best I can answer your question.
15 Q. The horses are not there currently, correct?
16 A. They are not.
17 Q. And they haven't been there for?
18 A. Not since September. Part of the problem we
19 faced with the delay that's gone on here is that when the
20 site over their is finalized, and we hope it will be where
21 it is, we want to put electricity and water out there

1 because it's difficult to go out in the dark and early
2 morning and evening to take care of them. And it's very
3 difficult in the wintertime to haul water, or anytime to
4 haul water back and forth. But summer, you can put hoses
5 out there. And we were away most of October, so we sent
6 the horses up to a farm in Westminster where one of them
7 is from, I think, and we are going to retrieve them next
8 week.
9 MS. KLEINFELTER: Next month.
10 A. Pardon me. Next month.
11 THE CHAIRMAN: You can't say anything. And,
12 again, it's a natural thing to do. She keeps the record.
13 There's no way to keep track of who's talking if somebody
14 else is talking from the gallery. Go ahead, Mr. Hoffman.
15 MR. HOFFMAN: Those are my questions.
16 THE CHAIRMAN: Cross?
17 CROSS EXAMINATION
18 BY MR. FREDERICK:
19 Q. Stan, was there ever any discussion of not
20 getting these horses in light of some of these issues?
21 A. No, not in light of those issues.

1 Q. Was there, after these issues came to light, was
2 there any discussion of the fact it just wouldn't be the
3 right thing to do here?
4 A. No.
5 Q. As I understood your testimony in the way the
6 plat looks, you don't have any dispute at this point that,
7 in fact, this is your front yard where the stable is
8 located?
9 A. Well, the law says what it says, and as you know,
10 if you run a plane through your front door and that's what
11 the county says, it's your front door. No, I don't have
12 any dispute.
13 MR. FREDERICK: That's all I have.
14 THE CHAIRMAN: Redirect?
15 MR. HOFFMAN: I have no redirect. Thank you.
16 THE CHAIRMAN: Thank you, sir.
17 THE WITNESS: Thank you.
18 MR. HOFFMAN: Mr. Doak.
19 B R U C E D O A K,
20 having been called as a witness, was duly sworn and
21 testified as follows.

1 MR. HOFFMAN: I just want to point out for the
2 record that the group of photos that's CBA 3A through F, I
3 think it is, they were part of the case below, and they
4 were the group of photos -- I apologize. CBA 2 --.
5 MR. MOHLER: No, no. Originally, we put them in
6 as two, and we made them three.
7 MR. HOFFMAN: Okay. That would appear to be the
8 case, that they were introduced below as separate
9 exhibits.
10 MR. MOHLER: Before you start with this one, can
11 I have that exhibit back, if you're not going to use it
12 anymore.
13 MR. HOFFMAN: Yes, you may.
14 THE CHAIRMAN: Off the record.
15 (Discussion held off the record.)
16 THE CHAIRMAN: We're going to keep them
17 separately in the file.
18 MR. HOFFMAN: These have not been introduced.
19 THE CHAIRMAN: Why don't you give us those and
20 we'll segregate those. Mr. Frederick, do you need these?
21 MR. FREDERICK: No. I know what they are.

1 THE CHAIRMAN: These are the pictures from below
2 that were not introduced. Off the record.
3 (Discussion held off the record.
4 THE CHAIRMAN: Okay. Mr. Hoffman.
5 DIRECT EXAMINATION
6 BY MR. HOFFMAN:
7 Q. State your name and go from there.
8 A. My name is Bruce Doak. I'm a principal of
9 Gearholz, Cross & Etzel. I'm a licensed property line
10 surveyor.
11 Q. Mr. Doak, have you testified as an expert land
12 surveyor before the Board of Appeals and the Zoning
13 Commissioner in variance cases, special exception cases?
14 A. Yes, I have, for over fifteen years, and hundreds
15 of times.
16 Q. You already stated that you are a licensed land
17 surveyor.
18 MR. HOFFMAN: I really don't have much in the way
19 of direct, if you'd like to voir dire?
20 MR. FREDERICK: No.
21 THE CHAIRMAN: Just for the record, you're

1 offering him as an expert in?
2 MR. HOFFMAN: Expert land surveyor.
3 Q. Is that how you've been qualified before?
4 A. Land surveying, zoning and land use.
5 THE CHAIRMAN: I was going to say I was just
6 recently in a matter with Mr. Doak where he was a land
7 surveyor with zoning and land use.
8 MR. FREDERICK: I'd respectfully suggest that you
9 three are the experts in zoning.
10 THE CHAIRMAN: Based on our knowledge of Mr. Doak
11 over the course of years, we'll certainly accept him for
12 those area.
13 Q. Mr. Doak, you prepared what's now marked CBA No.
14 2, correct?
15 A. That is correct.
16 Q. And are you familiar with the definition of a
17 farm under the Baltimore County zoning regulations?
18 A. Yes, I am.
19 Q. Can you tell the Board essentially what that
20 definition calls for to be qualified as a farm?
21 A. It says a parcel of land three acres or larger or

1 commercial agricultural use or for a residence and
2 associated agricultural use, but not for the use as a
3 wholesale florist or a riding stable. And there is one
4 other thing, but it doesn't apply to this.
5 Q. For purposes of this hearing, the Kleinfelter
6 property would qualify under what part of that definition?
7 A. It is three acres, and based on previous cases I
8 have had, and having the livestock there in the pasture as
9 they are being used, it would be an agricultural use.
10 Q. Is there a requirement for a certain amount of
11 pasture for you to have these miniature horses under the
12 zoning regulations?
13 A. Yes, sir, there is.
14 Q. What is that requirement?
15 A. For the size and species of animals that you
16 have, you'd be allowed to have two per pasturable acre.
17 Q. Did you mark on the Exhibit No. 2, the pasturable
18 acreage?
19 A. I did, yes, sir.
20 Q. Can you go to Exhibit 2 and point out where that
21 acreage is located and, for the record, if you used a

1 color, state the color you used.
2 A. In the center of CBA No. 2, I have a plan of the
3 property itself, the subject property, and what I have
4 done is computed -- gone out to the field, marked off
5 where, approximately, where the fences are, and in turn, I
6 have computed the areas of the size of each of the
7 pastured portions. I have three of those. Those are --
8 the first is in pink. That is where the stable is
9 located, or the barn is labeled on here. It is .38 or
10 just over a third of an acre.
11 The next is in green. It is .81, which is a
12 little over three-quarters of an acre. And the last is in
13 light blue, which is .34, once again a little over a third
14 of an acre. So altogether, you're looking at about an
15 acre and a half of pasturable area on this.
16 Q. Mr. Doak, would that qualify the property to have
17 the two horses that are coming back next month?
18 A. Yes, sir.
19 MR. HOFFMAN: If I could, I probably should have
20 done this, I think I gave the Board copies of the
21 definition of Bill 51-93. It is the bill that really

1 contains each of the definitions that Mr. Doak has been
2 referring to. It defines farm, and it also includes those
3 acreages. I move this is No. 5.
4 THE CHAIRMAN: Mr. Frederick, do you have any
5 objection?
6 MR. FREDERICK: No.
7 THE CHAIRMAN: That's No. 5.
8 Q. Mr. Doak, if I could ask one more question on
9 this issue of the farm, and then I'm going to move on to
10 something else. Before I do that, the photographs that
11 you have on CBA No. 2 --
12 A. Yes, sir.
13 Q. -- are they are similar to the photographs that
14 Mr. Kleinfelter introduced earlier, showing the property
15 and the location of the pasture as well as the stable in
16 its current painted form?
17 A. Yes. It's a little bit more current than the
18 other photographs, but it depicts basically the same
19 thing.
20 Q. And CBA 2 labels the locations where the
21 photographs were taken from and the direction in which

1 they were taken?
2 A. Yes. Each one of the photographs are numbered,
3 and, in turn, the number is circled in red with an
4 orientation of the way they were taken.
5 Q. So if the Board looks at the site plan, they can
6 look at the numbers and see where the pictures were taken
7 from and in what direction?
8 A. That is correct.
9 Q. Mr. Doak, are you aware of any other smaller
10 farms where structures have been constructed, buildings
11 have been constructed as farm buildings?
12 A. Yes, sir.
13 Q. There is one specifically that is -- what kind of
14 a farm? They have what type of animals?
15 A. They have alpacas, which are similar to a llama,
16 but they also have an allowance to have two per acre.
17 MR. FREDERICK: I have an objection to the
18 relevance of the alpaca farm. I don't see what it has to
19 do with anything.
20 THE CHAIRMAN: I agree, it's a limited value.
21 It's never really important to give me a variance because

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1 the guy down the street got a variance.
2 MR. HOFFMAN: The relevance is that the county,
3 per Mr. Doak's application, approved a permit for a
4 stable, barn, that was considered a farm building that's
5 on a piece of property that's about three acres. There's
6 a house on it. That would be the relevance.
7 THE CHAIRMAN: Simply to have the complete
8 picture, but I think I agree with Mr. Frederick that what
9 happened in Case A is totally different than what happens
10 in Case B or Case C. Each one rises and falls on its own
11 merits.
12 MR. HOFFMAN: I understand. And maybe, if you
13 let me go forward, it will become more clear, but there's
14 no variance required for that.
15 THE CHAIRMAN: Don't belabor the point.
16 MR. HOFFMAN: I'll move through it quickly.
17 Q. Mr. Doak, these three photographs, you took
18 these?
19 A. Yes, sir, I did.
20 Q. This property is located where?
21 A. On Manor Road.

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1 Q. How large is the property?
2 A. A little less than four acres.
3 Q. The first photograph, which would be 6A, that's a
4 photograph of the residence?
5 A. The dwelling. And in the background, it is of
6 the stable, barn.
7 Q. That would be on the right-hand side of the
8 picture beyond the basketball hoop?
9 A. That is correct.
10 Q. And B is a photograph of the -- I call it a barn?
11 A. It's a stable, both combination stable, barn,
12 everything on the property.
13 MR MOHLER: Are these properties in the
14 neighborhood?
15 THE WITNESS: They're located on Manor Road.
16 Beyond the Jacksonville area.
17 MR. MOHLER: So they're not in the general
18 vicinity?
19 THE WITNESS: No, it is not. This is No. C, and
20 it reflects the pasture and the barn and shows other
21 animals.

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1 Q. Mr. Doak, you made application for the permit for
2 the barn?
3 A. I did.
4 Q. And stable in that case?
5 A. I did.
6 Q. That particular structure exceeds the
7 fifteen-foot height requirement?
8 A. It does.
9 Q. And Baltimore County issued the permit as a farm
10 building on that property?
11 A. They did.
12 Q. Moving on to the second part of the case, leaving
13 the question of a farm or not a farm, farm building, not a
14 farm building behind, if the Board finds that this is an
15 accessory residential structure, and the county has said
16 that this is located in the front yard, that's what
17 triggers the need for the variance, is that correct?
18 A. That is correct.
19 Q. And in order to get a variance, there has to be a
20 showing that the property is somehow or the structures are
21 somehow unique.

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1 Now, Mr. Kleinfelter testified that this property
2 was the only one in his neighborhood that would qualify as
3 three acres with the amount of pasture necessary to have
4 these animals, is that correct?
5 A. That is correct.
6 Q. Do you agree with that?
7 A. Yes, I do.
8 Q. In your opinion, does that make this particular
9 property unique in its particular neighborhood?
10 A. It does.
11 Q. Is there anything unique about the land besides
12 its size and availability of pasture, in terms of its
13 connection with the structure itself? The location of the
14 structure, or the structure and the land, is there some
15 connection between those two things?
16 A. Well, as you can see from the photographs, much
17 of the land is open. Very little of it is wooded. So
18 also we have a difference in topography, as you can see.
19 So you have higher areas than others. Where they placed
20 the stable is in the highest area, with the least amount
21 of runoff that would impact it.

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1 Also, they placed it in the edge of a wooded area
2 or a buffer of trees. Therefore, it's shaded, where many
3 of the other places on the property would not be.
4 Q. Does the stable face north or south?
5 A. It faces south.
6 Q. Mr. Doak, do you own a farm yourself?
7 A. Yes, sir, I do.
8 Q. Do you raise -- what type animals do you have on
9 your farm?
10 MR. FREDERICK: Objection. I really don't know
11 the relevance.
12 THE CHAIRMAN: Unless he's raising ponies, and
13 you're going to talk to us about miniature ponies.
14 A. I do.
15 Q. You do?
16 A. I have ponies.
17 MR. FREDERICK: They don't happen to be in my
18 neighborhood?
19 THE WITNESS: Not unless they get loose.
20 THE CHAIRMAN: Let me make this really clear,
21 because I want to limit this. If it's about the factors

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1 of why miniature ponies have to be in certain places or
2 not in terms of temperature and environment, if you lay
3 the proper foundation, then I will let you ask another
4 miniature horse owner about those similar factors.
5 MR. HOFFMAN: That's where I was going.
6 THE CHAIRMAN: Not as to whether he's entitled to
7 have them there or not.
8 MR. HOFFMAN: I think you picked up on it. I'm
9 trying to separate my questions into two different
10 distinct areas.
11 THE CHAIRMAN: If you'll narrow it down to the
12 care and feeding of.
13 Q. Why don't we do that. Mr. Doak, do you have
14 horses?
15 A. I have horses.
16 Q. Do you have ponies?
17 A. I have ponies.
18 Q. How long have you had the farm and cared for
19 these animals?
20 A. I have been caring for horses and ponies all my
21 life, but I've had this farm for almost six years.

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1 Q. The factors that you've described about the
2 location of the barn on the Kleinfelter property, how is
3 your experience in caring for these types of animals
4 justified by the location of the particular structure?
5 A. Well, I've learned over the years that they're
6 not as hardy as most people would like to think. They do
7 take very specific environment and conditions. So, in
8 turn, to keep them healthy, you need to pay attention to
9 those things.
10 That means they need to be in the stable, and
11 where they stay needs to be dry, and in a condition like
12 that. They also need to be out of the elements, and that
13 means sun, wind, you know, the different elements. They
14 do have -- they are able to take care of themselves quite
15 a bit, but you still need to look after them in that
16 respect.
17 Q. Is it important to have shade in the summer and
18 sun in the winter?
19 A. Most definitely. They can have heat stroke and
20 sunburn, just like we can.
21 Q. The property is in a D.R. zoning classification?

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1 A. Yes, sir, it is.
2 MR. FREDERICK: The property?
3 MR. HOFFMAN: Excuse me. Good point. I just
4 confused the issue myself. Sorry.
5 Q. The Kleinfelter property is located in a D.R.
6 zone?
7 A. Yes, sir, it is.
8 MR. HOFFMAN: Thank you both.
9 Q. Mr. Doak, do you have an opinion as to whether or
10 not the variance, if it was granted, would be within the
11 spirit and intent of the zoning regulations?
12 MR. FREDERICK: Objection.
13 Q. Or the D.R. classification?
14 THE CHAIRMAN: As our normal procedure when
15 someone is made an expert as to the different factors that
16 get put in, they can state their expert opinion. They
17 then have to support it, and it's then subject to your
18 cross.
19 A. Based on the zoning regulations and my
20 experience, applicable experience, I do consider it meets
21 the spirit and intent of the regulations.

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1 Q. Can you expand on the basis for that opinion?
2 A. For a couple different reasons. Many, many,
3 times we create lots that have an agricultural use and we
4 create those three acres or larger, many times right
5 around three acres that have barns, that have accessory
6 buildings to agricultural use, and those have been
7 approved in every respect each time we have done them.
8 Also, it's not the case that, like with a residential use,
9 you are allowed to put those accessory structures anywhere
10 on the property. It is not restricted to just the rear
11 yard.
12 Q. Mr. Doak, given the circumstances of the
13 Kleinfelters' property, do you believe that the stable, if
14 it had to be moved, that that would create a practical
15 difficulty for the Kleinfelders in being able to have
16 these animals?
17 A. To be able to care for them and then, in turn,
18 have them, yes, sir.
19 Q. If I could ask you, you have been to the property
20 and to the surrounding area, surrounding streets to the
21 Kleinfelter property?

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1 A. Yes, sir.
2 Q. I'm off your property now completely?
3 A. Yes, sir.
4 Q. I ask you the same question I asked Mr.
5 Kleinfelter. Do you believe there will be, in your
6 opinion, any adverse impact on the neighbors, the public
7 generally, if the structure is permitted to stay in its
8 current location?
9 A. No, sir.
10 MR. HOFFMAN: I have no further questions
11 THE CHAIRMAN: Cross.
12 CROSS EXAMINATION.
13 BY MR. FREDERICK:
14 Q. Mr. Doak, I wanted to just ask you a couple
15 questions about these colored areas that you have marked
16 off here on CBA No. 2, which is the Kleinfelter property.
17 Did you survey and take land measurements to come up with
18 those?
19 A. No, sir, I did not. It was based on the
20 subdivision plat. And, in turn, the accurate measurements
21 of another surveyor.

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1 Q. You didn't double-check those measurements?
2 A. In the field?
3 Q. Yes.
4 A. No, sir, I did not.
5 Q. And the portion that you have outlined in
6 green –
7 A. Yes, sir.
8 Q. -- is that area currently accessible from when you
9 were last at the property to these horses, should they be
10 permitted to go back there, or is it fenced in, or what's
11 back there?
12 A. No, sir, it's not.
13 Q. So if they put them back there, they might very
14 well run off?
15 A. At this moment, they could.
16 Q. The blue here, the blue area here, is it fenced
17 in?
18 A. It is the area here, and yes, sir.
19 Q. So would it be the entirety of this blue area
20 that's fenced in, or can you say?
21 A. It would be very similar to that. There may be a

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1 little slight difference in that, but that would be very
2 similar to what the fence reflects.
3 Q. Let me be clear. You can't say for certain that
4 this blue area exactly follows the fence line?
5 A. No, sir.
6 Q. There may be some portion of it that's fenced,
7 but which portion, you can't say?
8 A. Yes.
9 Q. The portion that's outlined in pink is, indeed,
10 fenced?
11 A. Yes, sir.
12 Q. That's where the barn is currently located?
13 A. Yes, sir.
14 Q. Can you tell me how much of the .3 acres that you
15 have identified here within the pink is pasturable and how
16 much is trees?
17 A. I think it can be one and the same.
18 Q. So you would that the trees with leaves and roots
19 are the same as pasturable?
20 A. No, sir.
21 Q. Can you separate that out for me? How much is

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1 trees and how much is grass in this .38 acre parcel?
2 A. Based on the photograph here and my visits to it,
3 everything pretty much from the rear of the stable falls
4 under -- is wooded, and in turn has very little pasture at
5 the moment. There is some areas up against -- I think
6 that's your fence -- that has grass, even under the trees.
7 But there would be a small portion of this pink area that
8 is wooded.
9 Q. And is not pasturable?
10 A. That is correct.
11 Q. And in terms of a number, you can't tell me
12 whether that is a tenth of an acres, less than that? You
13 can't put any quantification on it?
14 A. Based on this being a third of an acre, a little
15 over a third of an acre, it would be less than a tenth of
16 an acre.
17 Q. That would be your estimate, but you didn't
18 measure it?
19 A. That is correct, yes, sir.
20 Q. Sire, the alpaca property you spoke about, where
21 is that property?

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1 A. Manor Road.
2 Q. That's not inside the beltway?
3 A. No, sir.
4 Q. Your property where you have your horses, where
5 is that?
6 A. Northern Baltimore County.
7 Q. That's, again, not inside the beltway?
8 A. No, sir.
9 Q. Not within a mile of Towson?
10 A. No, sir.
11 Q. You offered an opinion, sir, about the uniqueness
12 of this property in that it is the only three-plus acre
13 parcel that would be able to have some sort of
14 agricultural use, I think in the scope of the
15 neighborhood. Do you remember that?
16 A. Yes, sir.
17 Q. How did you define neighborhood?
18 A. The adjoining properties, say, within 500 feet of
19 the property.
20 Q. How did you come to determine that it was the
21 only three-acre property within that definition of

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1 neighborhood? Did you just go out and look at the houses
2 along the street, or did you go to the Land Records?
3 A. Well, there's other three-acre parcels in that
4 area, but that would have pasturable area. That would be
5 the difference between those.
6 Q. I guess what I'm asking maybe, in determining
7 whether there were or were not other three-plus acre
8 parcels in the neighborhood, did you consult the Land
9 Records, or did you simply go out and kind of look around
10 to see if anything looked like it was big enough?
11 A. First, we looked at the tax maps. Secondly, I
12 have worked on a number of properties around there. And,
13 third, when going around there, we looked in just an
14 informal way, that there were no -- they were all yards or
15 they had structures in them and things.
16 Q. And the yard would not be pasturable?
17 A. It depends how it's used. I mean, if there's
18 accessory structures, pools, those kinds of things, no.
19 Q. Did you look at the property that is immediately
20 to the north of the -- I'm sorry. It's two properties to
21 the north of the Kleinfelters.

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1 A. The big open yard?
2 Q. Yes.
3 A. With the brick house?
4 Q. No. I don't remember the number. It's not the
5 one right on the corner. The first house when you come
6 down Greenwood. Not the big, brick one. It's the one as
7 you come to the bottom.
8 A. On the right-hand side?
9 Q. Yes, sir.
10 A. I worked on that property.
11 Q. You understand there's a pretty good chunk of
12 property there in the back?
13 A. Yes, sir, but --
14 Q. Go ahead.
15 A. But the property also has accessory structures
16 and it also --it isn't shown on here. It would be down
17 the road. I know which one you're talking about, yes,
18 sir. I worked on it for the previous owners.
19 Q. Did you do any research to find out whether any
20 of that open space of that property would be three-plus
21 acres?

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1 A. Yes, I believe it is.
2 Q. Sir, my final question, are you being compensated
3 for your time today?
4 A. Yes, sir.
5 Q. At what rate?
6 A. $75 an hour.
7 Q. Is that how you have been compensated throughout
8 your work in this case?
9 A. Yes, sir.
10 MR. FREDERICK: I don't have anything else.
11 THE CHAIRMAN: Redirect?
12 REDIRECT EXAMINATION
13 BY MR. HOFFMAN:
14 Q. Just a couple thing, quickly. Bruce, farms are
15 permitted in D.R. zones which are rural density zones?
16 A. That's correct.
17 Q. And the D.R. zones indicate they are on public
18 utility, water and sewer?
19 A. That's the main designation for what makes them
20 D.R. density residential zones, yes.
21 Q. Are there examples of the R.C. zoned property

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1 that have public utilities, either water or sewer
2 available to them, and vice-versa?
3 A. Yes, sir, there are.
4 Q. Which, maybe I didn't follow this. I should have
5 gotten up. Can you point out on your tax map, which is
6 part of CBA No. 2, which parcel you were referring to
7 where Jim was asking you about that was nearby?
8 A. It's not on there.
9 Q. If I show you a larger version of the tax map, I
10 am going to ask you if you could point that out?
11 A. I worked on it, but –
12 Q. Do you know which one? I think the
13 description -- if I could go back -- the description was
14 there was a property as you come or turn onto Greenwood
15 Road, and it's not the property immediately on your right
16 where the brick house is, but the next one?
17 A. If I can guess -- and I'm not going to try to
18 guess -- but I think it's Parcel 1046. I worked on it
19 probably four years ago, five years ago, doing some
20 planning for the property, the owners.
21 Q. If you remember, that's the Tutrone house?

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1 MR. FREDERICK: That's not the property I was
2 talking about. It's the next one down.
3 A. 231.
4 Q. Parcel 231. And you said you did researched the
5 tax maps. Those properties are two acres or less, the
6 Tutrones, and I don't know the next one actually.
7 A. I didn't say. Without looking, 1046 would be the
8 largest of the two. And when looking at the tax map, and
9 knowing that ours is a little over three acres, I would
10 say that both 231 and probably 1046 are both under three
11 acres, but I can't say for sure.
12 Q. With regard to the pasture requirements, you
13 indicated an acre and a half of pasturable area on CBA No.
14 2.
15 A. When you add up the areas in pink, green and
16 blue, they add up to a little over an acre and a half.
17 Q. The requirement is that you have to have an acre
18 for two of these animals?
19 A. That is correct.
20 Q. Is it your opinion that you would need to field
21 locate at least an acre an a half in order to make sure

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1 it's at least an acre of pasturable area?
2 A. I believe we have, even with the fences being a
3 little different than what the colored areas are, even
4 with the loss of a little bit of pasture acre behind the
5 stable, I think we are still going to have, my opinion,
6 still going to have an acre of pasture.
7 Q. Miniature horses, can they be pastured using
8 invisible fences?
9 A. They can, yes.
10 Q. So you don't need a physical fence to keep the
11 horses in a particular area?
12 A. No, sir. I have done it with both small horses
13 and goats.
14 MR. HOFFMAN: That would be my redirect.
15 THE CHAIRMAN: Recross?
16 MR. FREDERICK: Yes.
17 RECROSS EXAMINATION
18 BY MR. FREDERICK:
19 Q. I want to make sure I'm clear. On parcel 1046
20 and 231 that we're talking about, you did no record
21 research or surveying to tell you what the size of those

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1 lots are?
2 A. No, sir.
3 Q. And you have no information as to whether, for
4 example, any of those lots have access to other properties
5 adjacent to them that would be pasturable?
6 A. No, sir.
7 Q. So that your view of whether their three acres or
8 not is somewhat of a guesstimate based on looking at the
9 relative size of the plat or parcel one on here on the tax
10 map, which if we haven't marked, I would like to mark, and
11 comparing it to the rough outline of 1046 and 231?
12 A. That is correct.
13 THE CHAIRMAN: Counsel, if you want to submit it,
14 do you want to use it first?
15 MR. FREDERICK: Is this the same one?
16 MR. HOFFMAN: Did I give you all a copy of it?
17 THE WITNESS: I gave you mine,
18 MR. HOFFMAN: Oh, you have Mr. Doak's.
19 MR. MOHLER: This would be Exhibit 7.
20 THE CHAIRMAN: Well, it's going to be his.
21 MR. HOFFMAN: I'll go ahead and put it in. I

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1 mean, the question is easily answerable and – are you
2 finished your redirect?
3 MR. FREDERICK: No.
4 MR. HOFFMAN: I'm sorry. Then I'll stop.
5 Q. Sir, with regard to the issue of fences, are you
6 aware one way or another whether these horses are subject
7 to an invisible fence in the rear portion of that area
8 outlined in green?
9 A. I do not know.
10 MR. FREDERICK: Now I'm done.
11 MR. MOHLER: Can you just be clear for me, so I
12 can see, can you highlight the property that is in
13 question?
14 THE WITNESS: Here's the subject –
15 THE CHAIRMAN: Gentlemen, the witness is marking
16 where these houses are on the plat. I just want to make
17 sure you're both happy.
18 MR. MOHLER: The subject is this one?
19 THE WITNESS: Yes, sir
20 MR. FREDERICK: That's fine.
21 THE CHAIRMAN: Mr. Hoffman, this is marked where

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1 the house is. Mr. Frederick has looked at it and has no
2 objection.
3 MR. HOFFMAN: I would like the opportunity to
4 recall Mr. Doak, or I can provide the information myself,
5 but the tax map information provides the acreages that go
6 along with this information. I have it back at the
7 office. I didn't bring it with me.
8 THE CHAIRMAN: Well, your case is still open. As
9 a practical matter, do you have more witnesses at this
10 point?
11 MR. HOFFMAN: I have one more witness.
12 THE CHAIRMAN: I'd like to move the case along.
13 In the event that Mr. Hoffman's case is over before the
14 lunch break, will you agree to allow him to submit it
15 after the lunch break?
16 MR. FREDERICK: Sure. That's fine.
17 THE CHAIRMAN: Then we'll just handle it that
18 way.
19 MR. MOHLER: Could I ask one question, if you
20 don't mind? I just want to clear something up in my own
21 mind. Since you did the survey, there's seem to be a

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1 point made about the stable/barn/accessory building,
2 whatever you want to call it, being on the highest
3 elevation of the property?
4 THE WITNESS: Yes.
5 MR. MOHLER: Is there anything -- I haven't
6 heard anything as far as the difference of dropoff. Do
7 you have anything as far as measurable dropoff of where
8 that exists to where other parts of the land are?
9 THE WITNESS: Okay.
10 MR. FREDERICK: May I come up?
11 THE CHAIRMAN: Sure.
12 THE WITNESS: On CBA No. 2, on the drawing in the
13 center, it has contour lines. If I may, the contour lines
14 are showing the difference in elevation. For these, it is
15 a difference of two feet between each line. Okay?
16 So, in turn, you can see that from where the
17 stable currently is now to where, let's say, the furthest
18 front portion of the property, you'd have approximately
19 eighteen to twenty feet difference in elevation.
20 THE CHAIRMAN: Between what and what?
21 THE WITNESS: Between where the existing stable,

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1 barn is now, to where the furthest extent in the front
2 yard of the property would be.
3 MR. HOFFMAN: The rear yard of the property would
4 be?
5 THE WITNESS: Rear yard. I apologize.
6 MR. HOFFMAN: Or else we wouldn't be here?
7 THE WITNESS: Yes, sir. So over the span that we
8 are talking about, from one extent or one extreme of the
9 property to the other, you're talking eighteen, twenty
10 feet difference in elevation,
11 MR. FREDERICK: Can I can a question in follow-up
12 to that question? I'm not sure, sir, if you're done?
13 MR. MOHLER: yes.
14 Q. (MR. FREDERICK) I want you to assume for a
15 moment, Mr. Doak, that the barn does not go all the way to
16 the rear but, instead, is placed here. What's the
17 elevation change. I'm talking about right here?
18 A. I'll put an "X" in red where Mr. Frederick is
19 speaking of. You're talking approximately ten feet
20 difference in elevation.
21 Q. Do you know what is the distance is from the "X"

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1 to the rear of the actual house? Can you give me any idea
2 how far that is?
3 A. Approximately seventy-five feet. It's just an
4 approximation, having been out there a number of times. I
5 don't have a scale on this. It isn't to scale.
6 Q. So would it be a difference, since we are talking
7 about an estimate and a scale, it would be approximately
8 the same distance as from the property, from the structure
9 as where the barn is located now, even though it doesn't
10 necessarily appear that way on the map?
11 A. It would be a little closer from the house to the
12 "X."
13 Q. Would it be more accessible?
14 A. No. You're asking about distance?
15 Q. Yes. Closer to the property?
16 A. It would be closer in distance from the corner of
17 the house to the red "X" than it would be from the corner
18 of the house to the existing stable.
19 MR. FREDERICK: Thank you.
20 THE CHAIRMAN: Does anyone else have any
21 questions based on that back and forth and the Board's

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1 questions?
2 MR. HOFFMAN: No,sir.
3 THE CHAIRMAN: Thank you, Mr. Doak.
4 MR. HOFFMAN: Mr. Fenwick.
5 CHARLES FENWICK,
6 having been called as a witness, was duly sworn, and
7 testified as follows:
8 DIRECT EXAMINATION
9 BY MR. HOFFMAN:
10 Q. Good morning, Mr. Fenwick. Your name and your
11 address?
12 A. Charles Fenwick. 2509 Butler Road, Butler,
13 Maryland.
14 Q. Your primary occupation?
15 A. I am a car dealer, primarily.
16 Q. You are a friend of the Kleinfelters?
17 A. Yes.
18 Q. A childhood friend of Mr. Kleinfelter?
19 A. Yes.
20 Q. Mr. Fenwick, you've provided me with a copy of
21 your resume, not necessarily as a car dealer but you're

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1 also an accomplished horseman, is that correct?
2 A. I am a horseman.
3 Q. If we could run through your history with both
4 riding and caring for and training horses, I'd like to
5 start with, if we could, your riding career, and if you
6 could tell the Board when it started and the extent of
7 it.
8 A. I first rode my first race in 1966, and had a
9 career that lasted until 1994. I competed in steeplechase
10 racing as a amateur steeplechase jockey. During that time
11 period, I won the Maryland Hunt Cup five times, won the
12 Grand National here in Maryland ten times, won an English
13 Grand National. At any one point, I was inducted into the
14 State of Maryland Athletic Hall of Fame as a steeplechase
15 jockey.
16 Q. Is winning the Grand National in -- is it in
17 England?
18 A. Yes.
19 Q. Is that a significant accomplishment for an
20 American?
21 A. Well, they're only two Americans that have done

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1 it, and there's been quite an effort to win it by others,
2 so, certainly for me, it was quite an accomplishment.
3 Q. Now, part of your experience with riding has
4 included the Downes at Shawan races. Were you associated
5 with that?
6 A. I was associated with the creation of Shawan
7 Downes about nine years ago, and a group of people in the
8 community got together to buy the property and develop it
9 as an equestrian park. It is an equestrian park, and I'm
10 the Executive Director of Shawan Downes.
11 Q. Where is it located?
12 A. It's basically at the corner of Shawan Road and
13 Falls Road.
14 Q. About 300 acres?
15 A. Three hundred acres.
16 Q. What type of races or equestrian an activity,
17 just generally?
18 A. It runs the gamut of steeplechasing, showing,
19 eventing, pentathalons, pony club. A whole variety of
20 equestrian activity.
21 Q. Could you describe your experience in caring for

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1 and training horses,
2 A. I have been a licensed trainer by the National
3 Steeplechase Association and Maryland Racing Commission
4 since the early seventies, and I have trained horses
5 throughout that entire time period. At some stages, I've
6 had at least thirty horses in training. I have a stable
7 at my own place that would stable twenty horses. So I
8 have been quite active as a trainer of horses for my adult
9 life.
10 Q. Are you a member of any industry board?
11 A. Well, I'm a member of the Maryland Horse Industry
12 Board which is an advisory board to the Department of
13 Agricultural. I was also in the selection board committee
14 for the Maryland Horse Park, which was active last year in
15 selecting a piece of property to house the state horse
16 park.
17 MR. FREDERICK: Mr. Stahl, Mr. Fenwick, with all
18 due respect to his eminent qualifications, but I don't
19 really know where we are going here.
20 THE CHAIRMAN: I was going to say I am going to
21 presume, based on the prior direct, that this witness is

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1 going to tell us about the care and feeding and
2 requirements of horses?
3 MR. HOFFMAN: Yes, sir,
4 THE CHAIRMAN: I think we've probably established
5 his bonafide, and if counsel doesn't object, I will invite
6 you to tell us what kind of expert you'd like him to be
7 ensconced, and then we will go from there.
8 MR. HOFFMAN: An expert in the care and training
9 and riding of horses.
10 THE CHAIRMAN: Counsel?
11 MR FREDERICK: No objection.
12 THE CHAIRMAN: I would have one question. Are
13 any of those horses, or any of that expertise or knowledge
14 that you obviously have involved with the species, breed
15 of the so-call mini horse?
16 THE WITNESS: I have three children, and they
17 have had all vanities of ponies, including miniature. We
18 had a miniature horse, one, and it was awhile ago.
19 THE CHAIRMAN: Accepted.
20 Q. Mr. Fenwick, my first question, is there any
21 difference in the care and feeding --

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1 THE CHAIRMAN: Given where we are, we'll accept
2 the witness as an expert in the care and training and
3 treatment of horses, generally.
4 MR. HOFFMAN: I plan on limiting my questions to
5 those factors, and how they relate to the variance request
6 for the stable.
7 THE CHAIRMAN: Fair enough.
8 Q. Mr. Fenwick, are there any differences in terms
9 of care and feeding of a horse, between a full-grown
10 horse, pony, or miniature horse?
11 A. Fundamentally, the care is basically the same.
12 Frankly, in my experience, there are some uniqueness, but
13 ponies and miniature horses in this case have to be
14 monitored very carefully. Changes in their health can
15 happen very quickly. It doesn't happen with a
16 thoroughbred horse, but it can be very quick.
17 Q. Have you been to the Kleinfelter residence?
18 A. Yes.
19 Q. Have you seen or walked the property?
20 A. Yes.
21 Q. Have you seen the location of the stable?

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1 A. Yes.
2 Q. Do you have an opinion as to whether the stable
3 must be located in its current place in order to provide
4 for the care of these miniature horses?
5 A. In my opinion, it is in the best place on the
6 property. As we heard earlier, it's on high ground, so
7 from a drainage prospective, it's less likelihood of the
8 flooring of that stable to be wet.
9 Q. Can you explain why that's important in the care
10 of this type animal?
11 A. Horses, ponies, miniature horses, need to be in a
12 dry area. Their feet are very sensitive to wet, and they
13 would develop what is thrown as thrush, which is an
14 infection in the frog of their foot which, if not treated,
15 can cause them to be lame, and may be even permanently
16 lame, if it's not treated correctly, and they are very
17 vulnerable to developing thrush. So that would be the
18 primary reason for the stable to stay dry.
19 Q. So being on the high side of the property, if the
20 facility sits --
21 A. It would be dryer than anywhere else.

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1 Q. What about you heard testimony from the southern
2 exposure?
3 A. They need to be in a stable for a period of time
4 each day. But the primary reason for that is to control
5 the diet. You need to be able to control the diet. Just
6 open range feeding for almost any horse or pony is
7 dangerous. So they need to be in a stable.
8 And in the wintertime, the stable needs to
9 have -- if it has southern exposure to the sun, it will
10 stay warmer. And in the summertime, if it has shade on
11 top of it to protect it from the sun, they will stay
12 cooler.
13 Q. Is that the case with the location of this
14 structure?
15 A. Yes.
16 Q. In terms of any of the other locations on the
17 property, you indicated this is the best location, did you
18 carefully look at the rest of the property to see if there
19 is any other location on the property that would meet the
20 unique needs of this structure?
21 A. No other location meets the needs the way this

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1 location does. Whether one other location could achieve
2 several of the items that's needed, possibly so, but I
3 don't think there's another location that gets all three.
4 MR. HOFFMAN: Thank you. That would be all my
5 questions.
6 THE CHAIRMAN: Cross.
7 CROSS EXAMINATION
8 BY MR. FREDERICK:
9 Q. Mr. Fenwick, your accomplishments as a jockey
10 and horseman are well known, sir. I mean no disrespect
11 asking you my questions here today on any of that.
12 But, sir, before the Kleinfelters actually
13 acquired these ponies and went down the road of getting
14 them, did they call and raise that issue or comment
15 whether this would be good location to raise the ponies?
16 A. No.
17 MR. FREDERICK: I think that's all I have, Mr.
18 Stahl.
19 THE CHAIRMAN: Any redirect?
20 MR. HOFFMAN: No redirect.
21 THE CHAIRMAN: Thank you, sir,

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1 MR. HOFFMAN: That would be our case. I asked
2 Mr. Doak to go back to the office and pull the tax
3 records. I will provide them to Mr. Frederick, or send
4 them by mail, if we are gone.
5 THE CHAIRMAN: Okay. Mr. Frederick, you're in
6 the interesting position, obviously as a member of the
7 bar, to be asking questions. We also have other folks.
8 Here's what we are going to do. Since you do not
9 represent them, we are going to allow you to lead in terms
10 of what you want to present to us, whether it be through
11 witnesses or your own testimony or exhibits.
12 Then I am going to throw it open, and any of the
13 unrepresented protestants who are here who wish to say
14 something to the Board will then be given an opportunity.
15 MR. FREDERICK: I understand. I guess, first,
16 I'd like to ask a follow-up question to your question. Do
17 you need me to be sworn?
18 THE CHAIRMAN: Actually, why don't you ask the
19 question, and then we are going to take a two-minute
20 break.
21 MR. FREDERICK: In the beginning, you asked --

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1 MR. HOFFMAN: Can I interrupt? I want to see if
2 I could proffer one thing before he gets started, and then
3 maybe we can take the two-minute break.
4 I will proffer I can recall Mr. Kleinfelter, that
5 there is an electric fence that's there, that encompasses
6 the entire property.
7 MR. MOHLER: Not just the green area?
8 MR. HOFFMAN: No. Well, maybe I can't proffer
9 it, because I have to ask Mr. Kleinfelter.
10 THE CHAIRMAN: How about we take the break? If
11 you want to recall Mr. Kleinfelter, I will let you, unless
12 you're going to work out a proffer with counsel.
13 MR. FREDERICK: We'll work it out. But my
14 question, at the outset, you asked for one of us to give
15 you some idea what had happened at the Zoning
16 Commissioner. Do you all not have a copy of the decision?
17 Do I have to put that in?
18 THE CHAIRMAN: This is de novo. Anything we're
19 going to hear is what you tell us. Generally, somebody
20 moves it in. Obviously, there have been things taken out
21 of the file now, but as an exhibit, generally somebody,

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1 usually both counsel, just make an understanding on the
2 record that everything that came up to us from below is
3 now a part of the file.
4 MR. FREDERICK: That includes the decision?
5 THE CHAIRMAN: That will include whatever we
6 have. I assume that will include that decision.
7 MR. HOFFMAN: It's my understanding that the
8 decision is part of the record, but not evidence in the
9 case, since it's a de novo hearing.
10 THE CHAIRMAN: Right. The last thing I have is
11 the 5th of January 2006 order from Bill Weisman.
12 MR. FREDERICK: That's fine. I just wanted to
13 make sure I understand the process.
14 THE CHAIRMAN: We'll break now, and then we'll
15 come back.
16 (A recess was taken.)
17 THE CHAIRMAN: Book on the record. Mr. Hoffman?
18 MR. HOFFMAN: In terms of the proffer, there's an
19 invisible fence -- I said electric fence, but Jim pointed
20 out correctly the term is electric, but it's invisible,
21 it's underground. It's already there. It's on the

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1 property. It basically does not include all of the areas
2 that are shown in blue, green and pink, but it is in
3 approximately those locations. It encompasses the whole
4 property. That is already installed on the property and
5 could be relocated to encompass any portion of the
6 property.
7 THE CHAIRMAN: Right now, it does encompasses the
8 entire property?
9 MR. FREDERICK: If you want to put him back up?
10 MR. HOFFMAN: How about if I put him back up?
11 STANARD KLEINFELTER,
12 having been previously sworn, was recalled, and testified
13 further as follows:
14 THE CHAIRMAN: For the record, you're still under
15 oath, sir.
16 THE WITNESS: We have two dogs, so this
17 encompasses the entire permiter of the property, give or
18 take a couple feet, with the exception of a driveway. We
19 are on a flag lot. It doesn't go down the driveway, but
20 the bulk of the lot.
21 THE CHAIRMAN: The witness is referring to?

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1 THE WITNESS: Basically, to everything.
2 MR. HOFFMAN: CBA 2.
3 THE CHAIRMAN: The different colors on CBA 2?
4 THE WITNESS: Yes.
5 THE CHAIRMAN: Thank you.
6 MR. FREDERICK: I understood there was some
7 discussion, that you have looked into the possibility that
8 you could put a collar on the horses, but you haven't done
9 that?
10 THE WITNESS: If we need this space, we have not
11 put the horses out there, except on a very limited basis,
12 referring to the green space. The pink and blue are
13 fenced. As Mr. Frederick -- we haven't had it surveyed,
14 but they are fenced and are approximately correct as to
15 the sizes. The green area, we have not had fenced. We do
16 have an electric fence out there, and if we need to put
17 the horses out there just as a grass management issue for
18 the other two fenced-in areas, we'll do that, and we'll
19 give them collars, which is what we've done with the dogs,
20 and we've consulted, and that's perfectly satisfactory.
21 THE CHAIRMAN: Okay. As a proffer, is that

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1 acceptable?
2 MR FREDERICK: Right.
3 THE CHAIRMAN: Mr. Hoffman, 'anything else?
4 MR. HOFFMAN: No.
5 THE CHAIRMAN: Other than putting in the tax map.
6 MR. HOFFMAN: Yes, I have the tax map. This is
7 the tax map for parcel 231.
8 MR. MOHLER: Exhibit 9.
9 MR. HOFFMAN And parcel --
10 MR. MOHLER: A and B.
11 MR. HOFFMAN: Parcel 1046.
12 THE CHAIRMAN: Which, for the record, are?
13 MR. HOFFMAN: One is parcel 231 LLC, 1.737 acres,
14 and parcel 1046, owned by the Tutrones, and that's 2.184
15 acres.
16 THE CHAIRMAN: Now, are we finished with your
17 case, Mr. Hoffman?
18 MR. HOFFMAN: I think so.
19 MR. FREDERICK: Do I need to get sworn in?
20 THE CHAIRMAN: It's the next order of business,
21 yes, sir. Why don't you come up here.

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1 JAMES FREDERICK,
2 having been called as a witness, was duly sworn, and
3 testified as follows:
4 THE WITNESS: The name is Jim Frederick. I live
5 at 602 Meadowridge Road, which abuts up to the subject
6 property. I guess the only thing I really need to do is
7 the three pictures, these are three pictures -- and I'll
8 start with this because it sort of is my point.
9 These are three pictures that were marked
10 Protestants Exhibit A, B and C at the very first hearing,
11 and we might as well keep them in the same order. They
12 are three pictures of the view from my back yard of the
13 structure, the barn, the stable structure.
14 It has, since this picture has been taken, been
15 painted green.
16 MR. HOFFMAN: Is it okay if I look over your
17 shoulder?
18 THE WITNESS: Absolutely. This is -- obviously,
19 some are further away and closer from where I was
20 standing.
21 THE CHAIRMAN: These pictures were taken from

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1 where?
2 THE WITNESS: My back yard. The date on them is
3 December 15, 2004. As I said, the only real significance,
4 difference, quite frankly, in the year and little bit that
5 has transpired is the structure is now, as you can see
6 there, is green, as opposed to the white prime color, but
7 that's the view.
8 And you can -- I don't have much more other than
9 a picture is worth a thousand words, I guess, so I don't
10 want to spend a thousand words up here.
11 In any event, that's the view. I have now three
12 little kids, four and a half, two and a half, and a
13 new-born. the four and a half and two and a half are very
14 active in the back yard. There's a swing sit, as you can
15 see from one of the pictures, not on CBA 2, but a picture
16 submitted by Mr. Kleinfelter's counsel that it's within
17 seventy-five feet or so -- yeah, that's the structure.
18 Aside, I understand what Mr. Kleinfelter has
19 testified to and others have speculated abut where's
20 there's been any negative impact, but in the summertime,
21 it stinks. I understand that Mr. Kleinfelter is of the

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1 view that if the barn moves, it may smell more. I don't
2 buy that.
3 But in any event, the current situation is such
4 that it is not pleasant. My kids don't like to be out
5 there. I don't like to be out there with them. It
6 interferes with the use and enjoyment of my own property.
7 And I think even Mr. Kleinfelter, when he was
8 sitting in this chair, recognized that while he disagreed
9 that there would be any negative impact, he acknowledged
10 there could be some negative visual impacts because people
11 don't like to look at sheds and barns from their yard.
12 So in any event, given those pictures and the way
13 that the structure negatively impacts on the use and
14 enjoyment of my property as well as the visual site lines
15 that I have in my yard, I don't like it and, you know, I
16 guess what I would say to the Board is, I am going to be
17 very brief, in effect, I am probably done with my own
18 testimony in this regard, but I have a lot more to say I
19 would offer by way of argument, or sum up, which I presume
20 I'm going to be given an opportunity to do, just like Mr.
21 Hoffman.

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1 THE CHAIRMAN: Well, let me --
2 THE WITNESS: If not, I will do it now.
3 THE CHAIRMAN: Again, the routine here at the
4 Board, the Board takes all that into account, and Mr.
5 Hoffman has practiced in front of the Board for a long
6 time. We have not only substantive testimony-related
7 issues, but we have, again depending upon the theories of
8 the case, a number of technical, statutory-based issues.
9 THE WITNESS: Yes, sir.
10 THE CHAIRMAN: It's usually the practice in this
11 Board to ask counsel,and, again, you're wearing two hats,
12 to submit memoranda in lieu of closing argument,
13 especially when there are statutory issues, so that
14 everybody can give us a complete view and a well thought
15 out and simultaneous fillings, and then we set the matter
16 in for a deliberation, and each member reads the memos.
17 THE WITNESS: Fair enough.
18 THE CHAIRMAN: So you really only have to give
19 your specifics.
20 THE WITNESS: I have given my specific testimony.
21 I object both visually and to the interference with the

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1 use and enjoyment my family has of my property, and I've
2 submitted these photos. And I think, as Mr. Doak pointed
3 out, he could put the barn over there on the other side
4 where it's supposed to be, and it might be a slight
5 elevation change, but I think there's ways that would be
6 fixed, and I think that's probably more by way of argument
7 than by way of specific testimony, so I think I've said my
8 piece. If the Board has any questions, I'd be happy to
9 answer.
10 MR. MOHLER: Just we had some questions back
11 there. If we put these together, would this be a
12 panoramic view?
13 THE WITNESS: With the obvious that it's not
14 exactly complete, but, yeah, that's my house.
15 MR. MOHLER: So your house would be mere here?
16 THE WITNESS: No, sir. My house is where it
17 would be, and this development is over here, so my
18 property is back along like that, and this is a panoramic
19 view where --
20 AUDIENCE: If I could --
21 THE CHAIRMAN: I have no problem with you adding

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1 into the discussion, except we're going to have to swear
2 you.
3 MR. HOFFMAN: Would it help --
4 THE CHAIRMAN: Let's do one thing at a time. Why
5 doesn't the witness see if he can help us along with that,
6 and you can question him, and then you can cross examine
7 him.
8 MR. HOFFMAN: Why don't we just take these
9 photos.
10 THE WITNESS: My impression is that the barn is
11 here, the barn is here. That's the barn. My house is
12 here.
13 MR. HOFFMAN: So the shot --
14 THE CHAIRMAN: If you could would do me a favor,
15 Mr. Frederick, take a pen and put a circle, an "X" and put
16 your initials, so we know it's your house.
17 THE WITNESS: You know, I'll do it here,
18 certainly, and say JAF. If we're still doing evidence,
19 you can look at CBA 1, which was the plat, and you can see
20 this very clearly. Maybe that's a way to do this, Rob.
21 MR. MOHLER: I'm just trying to get a visual.

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1 THE WITNESS: Let me see if I can help. This is
2 my property. This is the structure. And those three
3 houses that you see in the picture are those over here.
4 THE CHAIRMAN: Do that again for me.
5 THE WITNESS: This is my house right there.
6 That's this picture. This picture is kind of that way.
7 MR. HOFFMAN: So he was standing near his front
8 door.
9 THE WITNESS: Looking that way. So this one
10 is --
11 MR. MOHLER: More this way? So this is another
12 whole development over here. That's where those houses
13 are that you see in the background?
14 THE WITNESS: Yes, sir.
15 THE CHAIRMAN: All right. We're just trying to
16 pull the photographs together.
17 THE WITNESS: Glad to help.
18 MR. HOFFMAN: I should have thought of doing
19 this. The county has an aerial photograph of the area
20 which would show the location of the houses.
21 THE CHAIRMAN: I don't think it's absolutely

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1 necessary.
2 MR. HOFFMAN: Okay. You know where it is. That's
3 fine.
4 THE CHAIRMAN: Monday-morning quarterbacking
5 probably, that probably wouldn't be better for either one
6 of you.
7 THE WITNESS: So I guess unless Rob wants to ask
8 me a lot of questions --
9 MR. HOFFMAN I only have one.
10 THE WITNESS: I've learned enough that there are
11 more than one.
12 THE CHAIRMAN: Gentlemen, gentlemen.
13 CROSS EXAMINATION
14 BY MR. HOFFMAN:
15 Q. My one question, your other neighbors on either
16 side of you, east and west, many of them also have
17 accessory structures, swing sets, some sheds, that are
18 located in their rear yards?
19 A. The neighbors to my immediate east are the
20 Greens, and to my knowledge, other than their current
21 dumpster from their construction, they don't have any

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1 accessory structures.
2 To my west is the Finneys, and they do have a
3 structure that is entirely obscured from my view by
4 landscaping.
5 Q. If this -- second question -- would additional
6 screening, if it could be screened with landscaping
7 between the property line and the shed, would that
8 ameliorate or alleviate your concern over the visual
9 effect?
10 A. I would not use any over those words. It would
11 mitigate it, that it would lessen the impact, but I don't
12 believe landscaping is going to keep the odors down, and I
13 don't, in fact -- well, no.
14 MR. HOFFMAN: Wait a minute. Co-counsel. This
15 isn't my question.
16 Q. However, I have a third question.
17 A. Can I just object now?
18 Q. Sure. You can try. Stan testified that the
19 stalls are cleaned out twice a day. If the miniature
20 horses are there, and the stalls are cleaned out twice a
21 day, wouldn't that, in essence, mitigate any potential

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1 odors from going over onto your property? In other words,
2 the horses are going to be in the stall.
3 A. I hate to sound like the law student who's
4 fighting a hypothetical, but that's all well and good, but
5 it doesn't. If that's all happening, I appreciate that
6 efforts are being taken, but I stand on the other side of
7 that fence, and it still stinks. I mean I think I
8 understand what you're driving at, but, no.
9 Q. You're here as representing yourself and your
10 property. There are no other immediate neighbors who are
11 here objecting today?
12 A. I don't see any, no.
13 MR. HOFFMAN: Thank you. That is it. I went
14 over by four questions.
15 THE CHAIRMAN: Any questions by the Board? Thank
16 you, sir.
17 THE WITNESS: Thank you.
18 THE CHAIRMAN: Now, Mr. Frederick, you're
19 representing yourself pro say. Do you have any other
20 testimony, evidence or witnesses that you'd like to
21 present?

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1 MR. FREDERICK: No, I do not.
2 THE CHAIRMAN: For the record, each of you are
3 listed, and there are a number of people listed in the
4 file as protestants. The names on the list I have,
5 obviously, Mr. Frederick, Nancy Horst, Jimmy Cahn, Charles
6 O'Donovan, Richard Parsons, Suzanne Garrigries, and
7 Cecelia McGrain. Are any of those folks here, and do any
8 of those folks wish to place testimony? Sir, your name.
9 RICHARD PARSON: I'm Richard Parsons, Mr.
10 Chairman, and I represent the West Towson Neighborhood
11 Association, and the neighborhood association adjacent to
12 Mr. Frederick. We support Mr. Frederick in his
13 opposition.
14 MR. HOFFMAN: Well --
15 THE CHAIRMAN: To be fair.
16 MR. HOFFMAN: I'm okay with that.
17 THE CHAIRMAN: Well, if you accept it simply as a
18 proffer --
19 MR. HOFFMAN: I know Mr. Parsons is a
20 representative of that community association.
21 THE CHAIRMAN: Are you willing to waive the Rule

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1 8?
2 MR. HOFFMAN: Yes.
3 THE CHAIRMAN: Just so everybody knows what's
4 going on, Rule 8 is a process by which community
5 associations and representatives are allowed to speak on
6 behalf of the association. It's not a high hurdle to
7 jump -- not being facetious -- but there are issues.
8 MR. HOFFMAN: Mr. Frederick and I guess Mr.
9 Parsons and Ms. Horst are here and gave me quite a bit of
10 latitude as well, so that was very much appreciated.
11 THE CHAIRMAN: If we can, again, have your full
12 name.
13 RICHARD PARSON: Richard Parsons.
14 THE CHAIRMAN: Your address.
15 RICHARD PARSONS: I live at 412 Woodbine Avenue.
16 THE CHAIRMAN: And the organization that you're
17 here for, sir?
18 RICHARD PARSON: West Towson Neighborhood
19 Association.
20 THE CHAIRMAN: You're the adjacent development?
21 RICHARD PARSONS: We are the adjacent residential

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1 community to Mr. Frederick.
2 MR. HOFFMAN: You're on the east side.
3 RICHARD PARSONS: Well, we overlap, and we're
4 sort of friendly with each other.
5 THE CHAIRMAN: You're the adjacent community
6 association and you have indicated you support Mr.
7 Frederick.
8 RICHARD PARSONS: We don't have an invisible
9 fence between us.
10 THE CHAIRMAN: And you support Mr. Frederick's
11 position?
12 RICHARD PARSONS: Correct.
13 THE CHAIRMAN: I thank you, Mr. Hoffman, for
14 helping that along. If anyone else wishes to be heard?
15 Ma'am, your name?
16 NANCY HORST: My name is Nancy Horst. I'm the
17 executive director, but I will be happy to come up.
18 THE CHAIRMAN: And you rise for the purpose of
19 speaking on your own, or speaking on behalf of the group?
20 NANCY HORST: (Nodding head.)
21 THE CHAIRMAN: Do you want to take a minute, Mr.

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1 Hoffman?
2 MR. HOFFMAN: No. I know Nancy is the executive
3 director of Ruxton-Riderwood, and she doesn't have to
4 produce the Rule 8 papers.
5 THE CHAIRMAN: Again, you waive the Rule 8
6 papers?
7 MR. HOFFMAN: yes,sir.
8 THE CHAIRMAN: Ma'am, if you would join us up
9 here.
10 NANCY HORST,
11 having been called as a witness, was duly sworn, and
12 testified as follows:
13 THE CHAIRMAN: Ma'am, your full name, please.
14 THE WITNESS: Nancy Worden Horst. H-o-r-s-t. The
15 Worden is W-o-r-d-e-n. Not hyphenated.
16 THE CHAIRMAN: Your address, ma'am?
17 THE WITNESS: Post Office Box 204, Riderwood,
18 Maryland, 21139.
19 THE CHAIRMAN: The reason you're here today is?
20 THE WITNESS: I'm here today in my role as the
21 executive director of the Ruxton-Riderwood-Lake Roland

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1 Area Improvement Association, Incorporated.
2 THE CHAIRMAN: Slow down and give that to me
3 again.
4 THE WITNESS: Ruxton-Riderwood-Lake Roland Area
5 Improvement Association.
6 THE CHAIRMAN: And you hold what office?
7 THE WITNESS: Executive director. Okay. May I
8 comment. Sitting here as the southpaw, I've never scene
9 three -- I'm watching you all writing there, in amazement.
10 MR. MOHLER: Good observation.
11 THE CHAIRMAN: It's certainly a mark of
12 distinction.
13 THE WITNESS: Okay. Our association has a long
14 history of backing the existing zoning rules. We are very
15 much against waivers and things like that if they impinge
16 on another neighbor. We think that any waivers or
17 anything like that should be enforced if it, as I said,
18 harms another neighbor in some fashion. You buy a
19 property the way you buy a property, or in the case of the
20 Kleinfelters, they developed a property in the manner in
21 which they developed the property and, you know, they put

1 down those conditions then, and we believe they should
2 live by those, because the neighbor also bought into their
3 property expecting a certain set of rules.
4 And when these rules are bent or waived, or
5 however you want to put it, at the expense of another
6 neighbor, we think that is wrong.
7 And we have been very consistent since our
8 founding in 1953. Also, this falls in line with our
9 community plan which was approved by the Baltimore County
10 Council.
11 THE CHAIRMAN: Is there anything else you would
12 like to tell us?
13 THE WITNESS: No.
14 THE CHAIRMAN: Mr. Hoffman, cross?
15 MR. HOFFMAN: No questions.
16 THE CHAIRMAN: Mr. Frederick?
17 MR. FREDERICK: No.
18 MR. MOHLER: Just for information purposes, that
19 last statement that you made about waivers should be
20 enforced if it affects other neighbors, are there degrees
21 of that, and who's the decision-maker? For example,

1 your opinion this stable now impacts another neighbor,
2 therefore, you're here?
3 THE WITNESS: Yes. Not my opinion.
4 MR. MOHLER: But you're representing this group?
5 THE WITNESS: Yes.
6 MR. MOHLER: What if it were -- a hypothetical --
7 that it was a new addition of a family room and one
8 neighbor, for whatever reason, said, It impacts me. Are
9 there degrees -- is there a certain level that, well, this
10 impacts this neighbor, but that one may be a little over
11 the line? How consistent are you in that philosophy or
12 guiding principles that your community has?
13 THE WITNESS: Well, I have been executive
14 director for a little over two years, and it's been
15 completely consistent the entire time. We notify a
16 neighbor if a waiver or any other zoning issue that comes
17 up, we notify all the immediate neighbors, and if there's
18 no objection -- and we also phone the person who's doing
19 it -- and, of course, in this case, we didn't have that
20 opportunity because I don't believe a permit was sought or
21 anything else. This was all done, it was done, and then

1 all this other came up. So we didn't have that
2 opportunity.
3 But, generally speaking, were the Kleinfelters to
4 have come to the association, we would have recommended
5 they go to the neighbors and present their plans and get
6 their neighbors -- and, you know, usually the neighbors
7 are fine with it. And in that case, we do not go out on
8 our own, unless it's something extremely egregious, we do
9 not go out and testify about it. But once a neighbor
10 feels very impacted, then we have gone out and said, you
11 know, You're impacting this neighbor.
12 MR. MOHLER: Again, I guess the question I'm
13 trying to get at, if the neighborhood -- if there are
14 eight in the neighborhood that say it doesn't impact, and
15 the ninth says it does, do you follow your rules and
16 guiding principals that a neighbor feels impacted, we are
17 going to back that neighbor, regardless the other eight
18 don't have a position?
19 THE WITNESS: In my experience in the past, two
20 years, yes, that's what we have done.
21 THE CHAIRMAN: Does that generate anything first

1 from you, Mr. Hoffman, or Mr. Frederick?
2 MR. HOFFMAN: No.
3 MR. FREDERICK: No.
4 THE CHAIRMAN: Thank you. Now, once again, my
5 question is, is there anyone else who has not been yet
6 been, one of the folks involved in this matter who wishes
7 to be heard?
8 (No response.)
9 THE CHAIRMAN: Not seeing any others than these
10 two individuals, I will presume that's the completion of
11 the protestants' matter. Is there any rebuttal case you'd
12 like to present?
13 MR. HOFFMAN: No, sir.
14 THE CHAIRMAN: Okay. That would seem to leave us
15 at the end of the testimony portion of the hearing. What
16 we will now do, as I indicated a few minutes ago to Mr.
17 Frederick, as is our normal procedure here, we have
18 essentially two sets of issues. We have the things that
19 witnesses have told us and we have the various statutory
20 laws and regulations and definitions, and all that stuff.
21 In lieu of closing argument, we simultaneously

1 file briefs, usually around thirty days from today.
2 The process, again mostly for Mr. Frederick's
3 edification, is that unless anybody has a problem with it,
4 today is the 22nd of March, so we're looking at -- how
5 about the 21st, which is the end of business on a Friday,
6 or if you guys want Monday, the 24th, doesn't make a
7 difference to me.
8 MR. FREDERICK: I appreciate that. That's fine
9 with me.
10 THE CHAIRMAN: Monday, the 24th of April,
11 memoranda due. You need to go in and just confirm that
12 with Kathi Bianco, our executive director. Thereafter,
13 she will set in a deliberation which we are subject to on
14 the Board of Appeals where zoning is involved, and
15 everyone who's on our notice list for the hearing will get
16 a notice of that.
17 The deliberation is not an opportunity for people
18 to come and to take part in any way. It's simply you're
19 being invited to our sitting down here and having a work
20 session to talk about the case.
21 MR. FREDERICK: In other words, we get to listen

1 and not speak.
2 THE CHAIRMAN: Exactly. The actual order is then
3 written by a member of the panel, and any appellate rights
4 for either side would begin thirty days from the date of
5 that order, which is at the end of the process.
6 Unless anybody else has any questions, I want to
7 thank all concerned. It's always nice when things are a
8 little more collegial. Makes the morning go easier. I
9 thank you all, and we are adjourned.
10 MR. HOFFMAN: Thank you.
11 MR. FREDERICK: Thank you very much, sir.
12 (Examination concluded.)
13 * * * * *
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Charlie & Molly O'Donovan
600 Greenwood Road
Towson, MD 21204

March 9, 2007

Zoning Review
Department of Permits and Development Management
Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Re: Case #07-392-A – In the matter of Stanard T. & Sarah C. Klinefelter

Dear Sirs:

Mr. & Mrs. Klinefelter have filed the above referenced case seeking permission to locate their stable (8'x 24') as shown in the attached drawing. This location is southeast of our residence at 600 Greenwood Road, on the far side of a large oak tree.

We have reviewed the proposed location with Mrs. Klinefelter and have no objection to the placement of the stable as they have requested.

Thank you for your consideration in this matter.

Very Truly yours,

Molly O'Donovan

Molly O'Donovan

Charlie O'Donovan

PETITIONER'S
EXHIBIT NO. 6

Ralph & Nancy Ferrell
522 Greenwood Road
Towson, MD 21204

April 1, 2007

Zoning Review
Department of Permits and Development Management
Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Re: Case # 07-392-A In the matter of Stanard T. & Sarah C. Klinefelter

Dear Sir/Madam:

Mr. & Mrs. Klinefelter have filed the above-referenced case seeking permission to locate their stable (8'x24'x9') as show in the attached drawing. We live on Lot# 2, 522 Greenwood Road immediately southwest of the Klinefelter's property. We have reviewed the proposed location and variance request, and we have met with the Klinefelters. We oppose the zoning variance request unless the restrictive covenants attached hereto are part of any variance approval. In addition, we will require these same covenants be in the form of an agreement that is recorded in the land records.

Should you have any questions, we may be reached at 410-337-2065.

Very truly yours,

Ralph H. Ferrell, III

Nancy R. Ferrell

Cc. Mr. & Mrs. Stanard Klinefelter w/enclosure
Mr. & Mrs. Gillis Green w/enclosure
Mr. & Mrs. Charles O'Donovan w/enclosure
Mr & Mrs. Andrew John w/enclosure

NRF/bll
enclosure

PETITIONER'S
EXHIBIT NO. 7

Required Restrictions for Approval of the Zoning Variance Case #07-392-A
at 530 Greenwood Road
April 1,2007

1) The Size of stable can never be larger than that 8' x 24' x 9'

2) Placement of the stable must be oriented north/south such that it is perpendicular to the Green's lot and must be on the south side of the oak tree within 2 feet on all sides of the location designated on the attached Exhibit A.

3) No more than two miniature horses and no other animals except for miniature horses may be permitted to use the stable for any reason. These horses shall be limited to living and grazing in the two pastures designated on Exhibit A.

4) All manure/compost may only be dumped within area currently used for that purpose and this area may not be moved by more than 20 yards in any direction (the current location to be designated by the Klinefelters on Exhibit A). It is also agreed that if this area becomes a problem due to odor, appearance, runoff, etc., for any of the surrounding property owners (whether a party to this agreement or not), the Klinefelters will take the steps to clean up the problem within 14 days of notification.

5) The two pastures currently enclosed by fencing as well as the barn must be maintained in a sanitary condition conducive with how it has been maintained to date, and in a manner which is consistent with surrounding residential properties in the Ruxton/West Towson area. If the parties to this agreement determine that such conditions are not sanitary and maintained properly, the parties have the right to enter the Klinefelter property and to clean, mow or repair the property in order to bring the property back to standard condition at the expense of the Klinefelters provided that the Klinefelters will be given 14 days notice of such action.

6) Sarah and/or Stan Klinefelter agree that this approval is being granted with the understanding that for now and in the future 1) the barn will not be relocated for any reason to another area of the Klinefelter property, 2) no additional structures of any size that are used for the care and/or maintenance of miniature horses will be added or constructed on their property, 3) no additional fencing beyond what exist as of April 1,2007 will be added other than fencing to repair the hole left when the stable is relocated, 4) no area on the Klinefelter's property outside of the existing fence shall be used to expand or create new pastures, grazing areas or any other intended use that they may deem are required for the care of these horses on their property. Further, the Klinefelters agree that if this does not resolve their issues with the care and maintenance of the miniature horses, they will permanently remove the horses from their property and within 60 days remove both the fences and the stable from their property.

7) These restrictions shall be recorded in the land records as well as are conditions of approval of the requested zoning variance. This zoning variance approval permitting this accessory structure shall be limited to Sarah and Stan Klinefelter only and shall be terminated upon any transfer of ownership of their residence or any part thereof in any form thereof including but not limited to an estate, trust under will, family member, third party acquisition or otherwise.

8) Sarah and Stan Klinefelter acknowledge that this approval is with reluctance and for their personal benefit only and therefore agree to pay any and all costs associated with formalizing and recording this agreement including but not limited to attorneys fees for all parties, recording fees, court costs and any other related costs.

9) Sarah and Stan Klinefelter understand that if the parties involved with this agreement have not fully executed an acceptable agreement incorporating the above terms and conditions prior to the expiration of the requested zoning variance Case # 06-392-A due to closed on April 2, 2007 at 4:30 pm, then the parties involved shall file an opposition to the zoning variance, such opposition will include a letter stating that a zoning variance may be acceptable if an agreement containing these points can be drafted and signed by the Klinefelters prior to the scheduled Zoning Hearing.

Exhibit A

RESERVATION

BALTIMORE COUNTY, MD
CHARLES SPRING WAY
09-2200000977

JAMES A. FREDERICK
602 MEADOWRIDGE ROAD
TOWSON, MD 21204
09-0901352060

LOT 6

N 03°28'21" W 263.10'

S 74°52'13" E 149.64'

DRAINAGE & UTILITY EASEMENT

Pasture #1

248'

DRAINAGE & UTILITY EASEMENT

N 31°27'47

S 31°27'47

EX. GARAGE

LOT 1
3.315 Ac ±
530

EXISTING BUILDING
FRONT
FINISHED

WALL

225'

BARN

100'

Pasture #2

202.50'

64°13'00" E 338.11'

N 24°20'30" E 160.26'

Rebar and Cap Found "GWS C-60"

93.65'

S 01°29'09" E

S 74°52'13" E

EXISTING DRIVEWAY

N 74°51'43" W 320

RALPH & NANCY FERRELL
522 GREENWOOD ROAD
TOWSON, MD 21204
09-2200016349

LOT 2
2.398 Ac. ±
522

10.00'

72.21'

82.21'

S 24°11'50" E

Rebar and Cap Found "GWS C-60"

CHARLES O'DONOVAN
600 GREENWOOD ROAD
TOWSON, MD 21204
09-2200013913

70.89'

S 16°25'44" E

Rebar and Cap Found

F. GILLIS GREEN
LYNN M. GREEN
600 Meadowridge Road
Towson, MD 21204

April 2, 2007

Zoning Review
Department of Permits and Development Management
Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Re: Case # 07-392-A In the matter of
Stanard T. & Sarah C. Klinefelter

Dear Sir/Madam:

Mr. & Mrs. Klinefelter have filed the above-referenced case seeking permission to locate their stable (8'x24'x9') as show on the attached drawing. We live on Lots# 4-5, 600 Meadowridge Road immediately north of the Klinefelter's property.

We have reviewed the proposed location, and we have met with the Klinefelters. Provided that the covenants and conditions attached hereto are part of any variance approval, we have no objection to the placement of the stable as the Klinefelters have requested.

Should you have any questions, we may be reached at 410-823-2673.

Very truly yours,

F. Gillis Green Lynn M. Green

cc. Mr. & Mrs. Stanard Klinefelter w/enclosure
Mr. & Mrs. Ralph Ferrell w/enclosure

FGG/enclosure

PETITIONER'S
EXHIBIT NO. 8

Required Covenants and Conditions for
Zoning Variance Case #07-392-A
at 530 Greenwood Road

April 2007

1) The Size of stable can never be larger than that 8' x 24' x 9'

2) Placement of the stable must be oriented north/south such that it is perpendicular to the Green's lot and must be on the south side of the oak tree within 2 feet on all sides of the location designated on the attached Exhibit A.

3) No more than two miniature horses and no other animals except for miniature horses may be permitted to use the stable for any reason. These horses shall be limited to living and grazing in the two pastures designated on Exhibit A.

4) All manure/compost may only be dumped within area currently used for that purpose and this area may not be moved by more than 20 yards in any direction (the current location to be designated by the Klinefelters on Exhibit A). It is also agreed that if this area becomes a problem due to odor, appearance, runoff, etc., for any of the surrounding property owners (whether a party to this agreement or not), the Klinefelters will take the steps to clean up the problem within 14 days of notification.

5) The two pastures currently enclosed by fencing as well as the barn must be maintained in a sanitary condition conducive with how it has been maintained to date, and in a manner which is consistent with surrounding residential properties in the Ruxton/West Towson area.

6) The Klinefelters agree that 1) the barn will not be relocated for any reason to another area of the Klinefelter property, 2) no additional structures of any size that are used for the care and/or maintenance of miniature horses will be added or constructed on their property, 3) no additional fencing beyond what exist as of April 1,2007 will be added other than fencing to repair the hole left when the stable is relocated, 4) no area on the Klinefelter's property outside of the existing fence shall be used to expand or create new pastures, grazing areas or any other intended use that they may deem are required for the care of these horses on their property.

7) These restrictions shall be recorded in the land records as well as are conditions of approval of the requested zoning variance. This zoning variance approval permitting this accessory structure shall be limited to Sarah and Stan Klinefelter only and shall terminate upon any transfer of ownership of 530 Greenwood Road or any part thereof, in any form thereof including but not limited to an estate, trust under will, family member, third party acquisition or otherwise.

RESERVATION

BALTIMORE COUNTY, MD
CHARLES SPRING WAY
09-2200000977

JAMES A. FREDERICK
602 MEADOWRIDGE ROAD
TOWSON, MD 21204
09-0901352060

LOT 6

FP14
FB13
4.01'
24.00'
87°
103.01'
107.02'
236
154.46'
N 03°28'21" W 263.10'
10'
DRAINAGE & UTILITY EASEMENT
PASTURE #1
248'
COMPOST
EX. GARAGE
S 74°52'13" E 149.64'
DRAINAGE & UTILITY EASEMENT
244
N 31°27'47"
246
S 31°27'47"

LOT 1
3.315 Ac.±
530

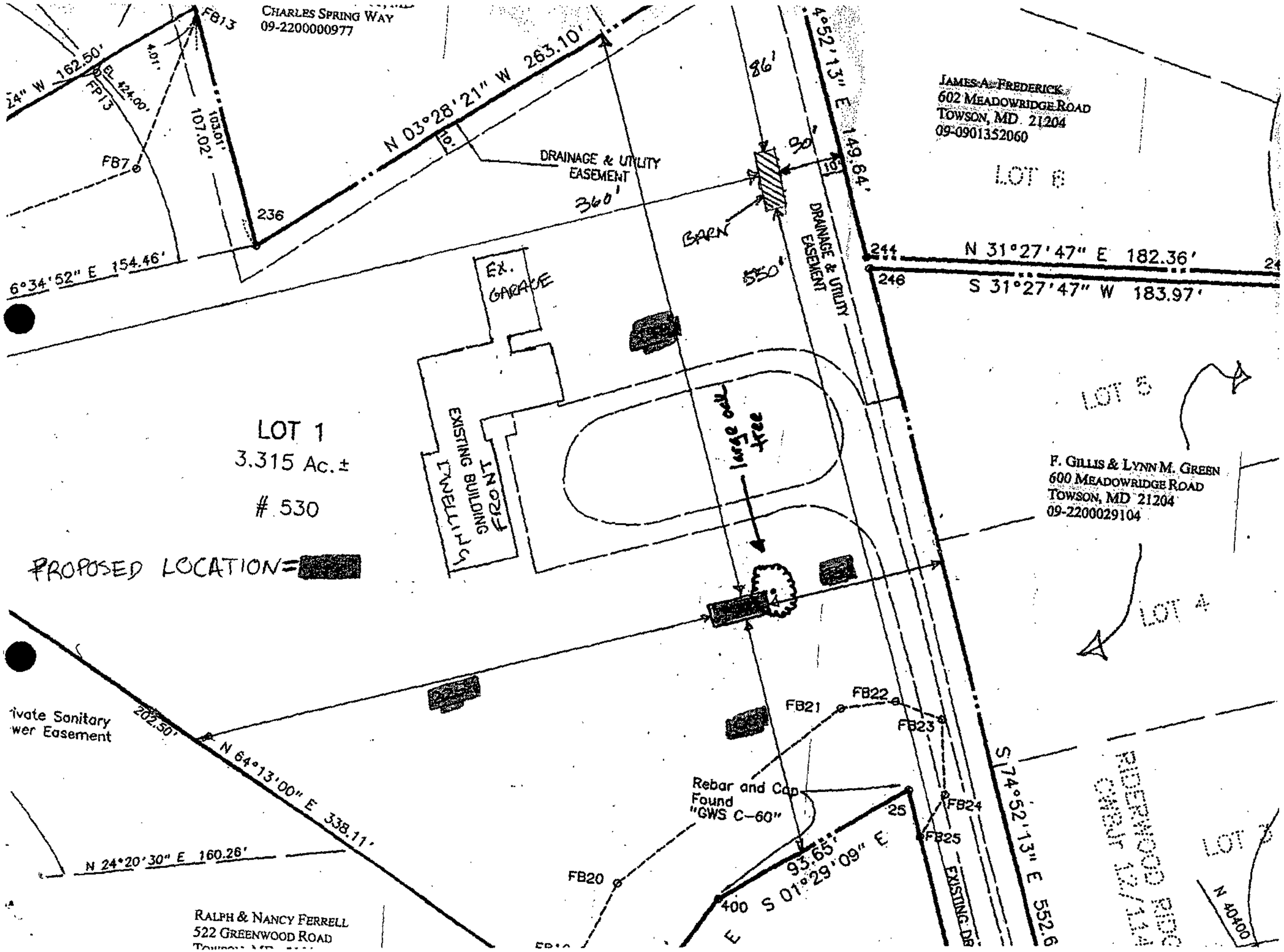
EXISTING BUILDING
FRONT
STATELY

WALL
79
BARN
100'
225'
PASTURE #2
FB21
FB22
FB23
FB24
FB25
25
Rebar and Cap Found "GWS C-60"
S 74°52'13" E
202.50'
64°13'00" E 338.11'
N 24°20'30" E 160.26'
FB20
93.65'
S 01°29'09" E
400
EXISTING DRIVEWAY
FB19
72.21'
82.21'
S 24°11'50" E
10.00'
Rebar and Cap Found "GWS C-60"
273
N 74°51'43" W
297.35'
RALPH & NANCY FERRELL
522 GREENWOOD ROAD
TOWSON, MD 21204
09-2200016349

LOT 2
2.398 Ac.±
522

FB28
FB27
FB9
FB26
70.89'
S 16°25'44" E
Rebar and Cap
23

CHARLES O'DONOVAN
600 GREENWOOD ROAD
TOWSON, MD 21204
09-2200013913


CHARLES SPRING WAY
09-2200000977
FB13
4.01'
24" W 162.50'
BL 424.00'
FP13
103.01'
107.02'
FB7
N 03°28'21" W 263.10'
10'
DRAINAGE & UTILITY EASEMENT
360'
236
6°34'52" E 154.46'
86'
4°52'13" E 149.64'
30'
BARN
550'
DRAINAGE & UTILITY EASEMENT
JAMES A. FREDERICK
602 MEADOWRIDGE ROAD
TOWSON, MD 21204
09-0901352060
LOT 6
244
246
N 31°27'47" E 182.36'
S 31°27'47" W 183.97'
EX. GARAGE
LOT 1
3.315 Ac.±
530
EXISTING BUILDING
FRONT
large oak tree
LOT 5
F. GILLIS & LYNN M. GREEN
600 MEADOWRIDGE ROAD
TOWSON, MD 21204
09-2200029104
PROPOSED LOCATION=
LOT 4
FB21
FB22
FB23
FB24
FB25
25
Rebar and Cap Found "GWS C-60"
S 74°52'13" E 552.6
EXISTING DR
ivate Sanitary wer Easement
202.50'
N 64°13'00" E 338.11'
N 24°20'30" E 160.26'
FB20
93.65'
S 01°29'09" E
400
E
RALPH & NANCY FERRELL
522 GREENWOOD ROAD
LOT 3
N 40400

Required Restrictions for Approval of the Zoning Variance Case #07-392-A at 530 Greenwood Road April 1, 2007

1) The size of stable shall not be increased beyond its present size, which is 8'4"x24'4"x9'8", exclusive of the cupola, weather vane and downspouts. The stable will be placed on a foundation that will be at ground level at the high end of the grade at the site.

2) Placement of the stable must be oriented north/south such that it is perpendicular to the Green's lot and must be on the south side of the oak tree within 2 feet on all sides of the location designated on the attached Exhibit A.

3) No more than two miniature horses and no other animals except for miniature horses may be permitted to use the stable for any reason. These horses shall be limited to living and grazing in the two pastures designated on Exhibit A.

4) All manure/compost may only be dumped within area currently used for that purpose and this area may not be moved by more than 20 yards in any direction (the current location to be designated by the Klinefelters on Exhibit A). The Klinefelters shall maintain the current screening of the manure/compost area and shall not permit the odors or runoff there from to interfere with the use or enjoyment of any adjacent property.

5) The two pastures currently enclosed by fencing as well as the barn must be maintained in a sanitary condition conducive with how it has been maintained to date, and in a manner which is consistent with surrounding residential properties in the Ruxton/West Towson area. If the Neighbors determine that the pastures or barn are not maintained properly, the Neighbors shall have the right to enter the Klinefelter property and to clean, repair otherwise maintain the property at the expense of the Klinefelters provided that the Klinefelters will be given 14 days notice of such action.

6) The Klinefelters agree that: 1) the barn will not be relocated for any reason to another area of the Klinefelter property, 2) no additional structures of any size that are used for the care and/or maintenance of miniature horses will be added or constructed on their property, 3) no additional fencing beyond that existing on April 1, 2007 will be added other than fencing to repair the hole left when the stable is relocated and 4) no area on the Klinefelters' property outside of the existing fence shall be used to expand or create new pastures, grazing areas or any other use relating to the care of two miniature horses on their property.

7) At such time as the Klinefelters sell or otherwise transfer their property, they shall remove the stable at their expense and remove the miniature horses.

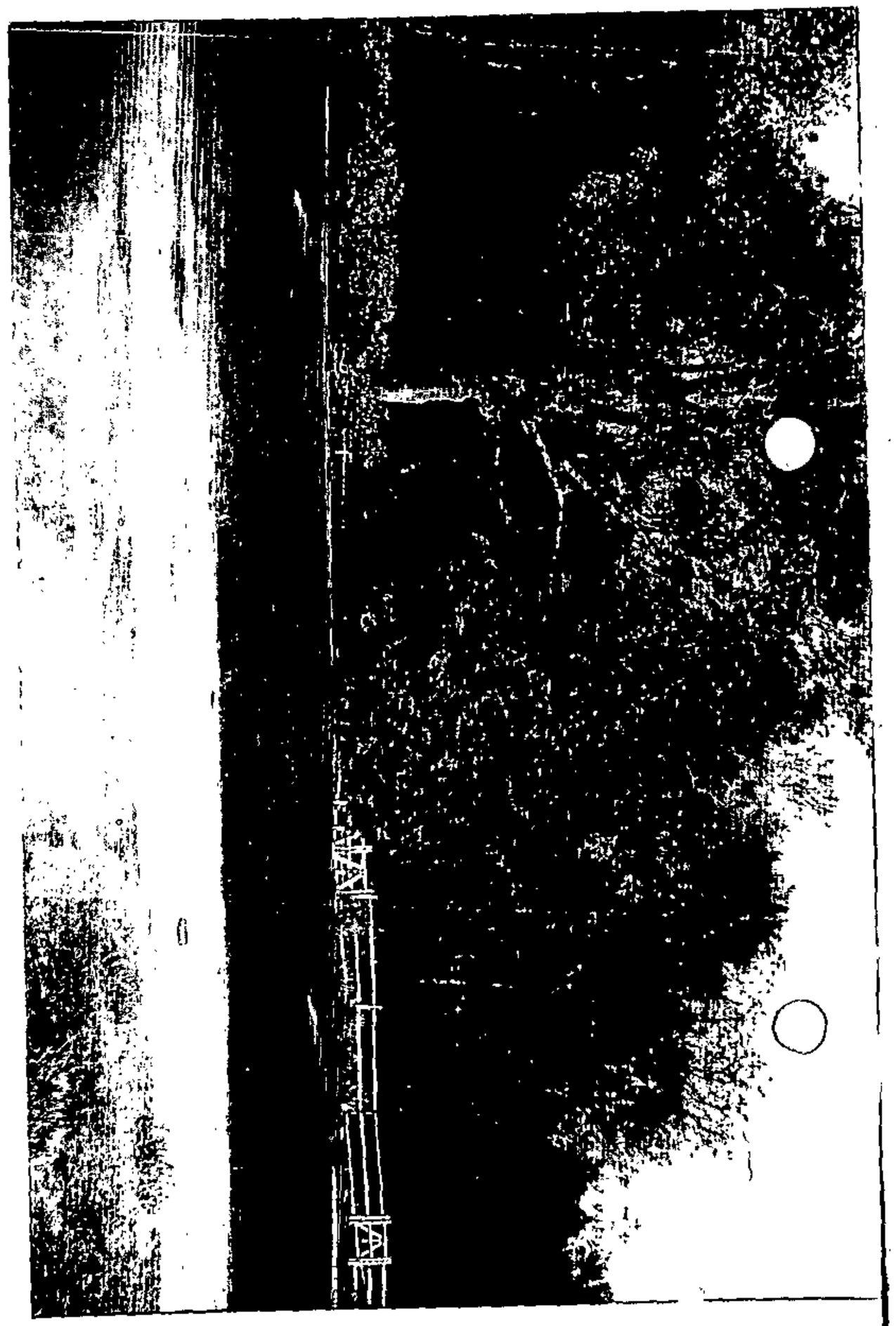
8) As used herein, the terms "Neighbors" shall mean any one or more the owners of 522 Greenwood Road, presently Mr. & Mrs. Ralph Ferrell, 600 Greenwood Road, presently Mr. & Mrs. Charles O'Donovan, Jr. and 600 Meadow Ridge Road, presently Mr. & Mrs. M. Gillis Green. Additionally, "Klinefelters" shall mean Mr. and Mrs. Stanard T. Klinefelter.

PETITIONER'S

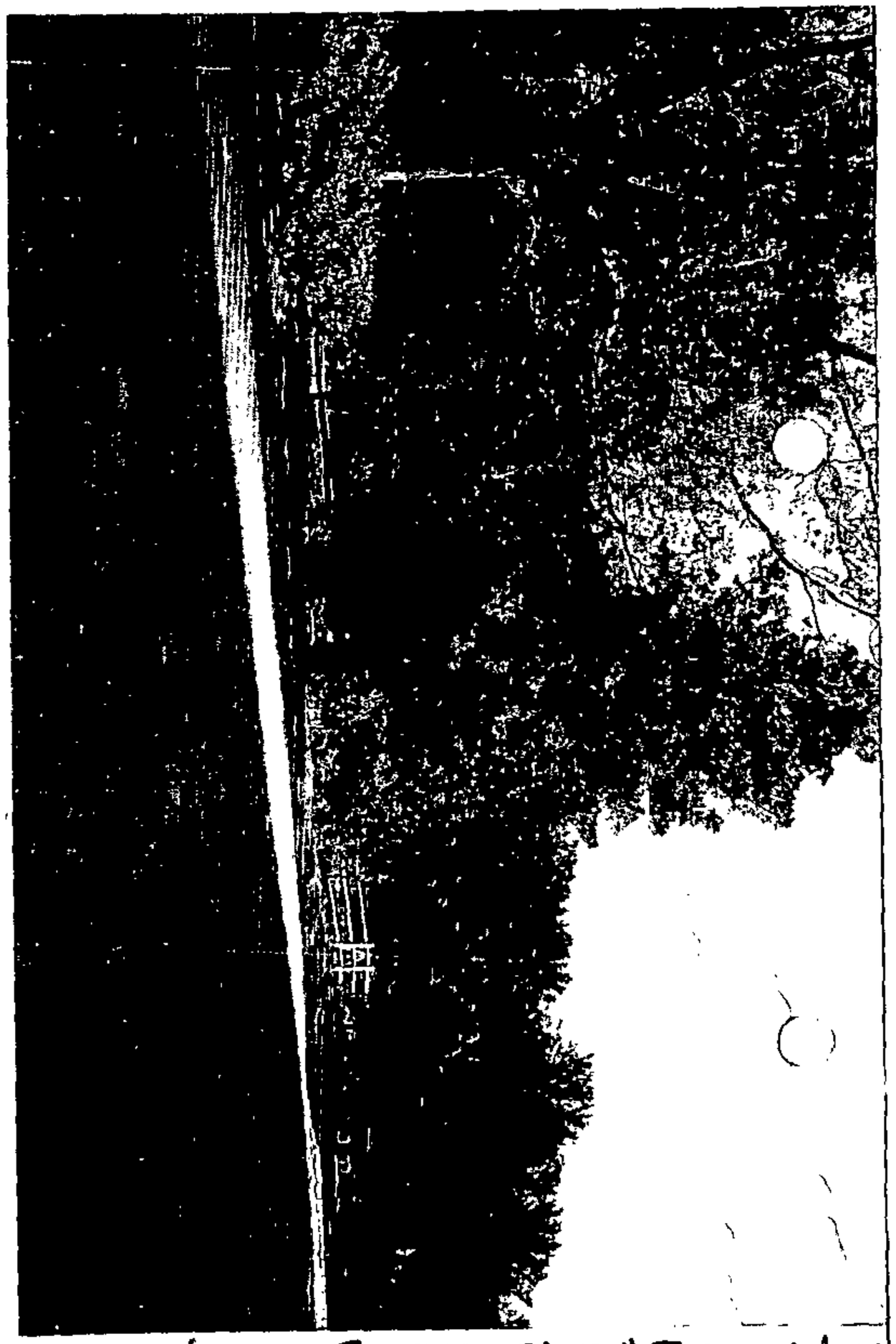
EXHIBIT NO. 9

9) In the event of any dispute(s) that may arise hereunder, the costs, including reasonable legal fees and out-of–pocket expenses of the prevailing party, shall be borne by the losing party in such dispute.

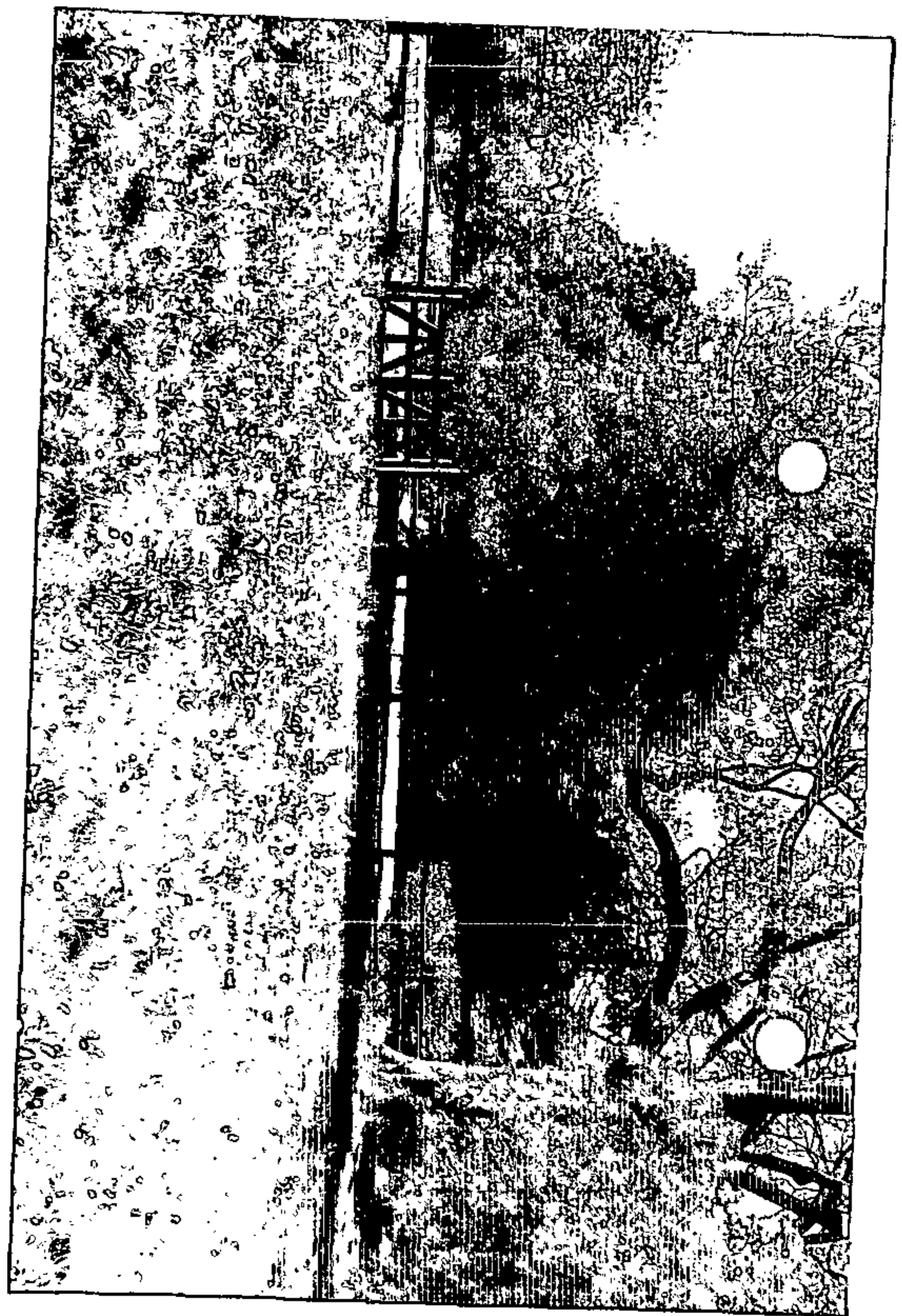
10) These restrictions shall have no force and effect unless and until Baltimore County grants the Zoning Variance requested by the Klinefelters in Case #07-392-A and such grant is no longer subject to appeal. Prior to relocation of the stable (and as a condition of such relocation), the terms and conditions set forth in the foregoing paragraphs shall be memorialized in covenants to be recorded in the land records of Baltimore County. Such covenants shall be prepared at the expense of the Klinefelters and submitted to the Neighbors for their approval, which shall not be unreasonably withheld, and signature. Upon recording of the covenants, the Klinefelters may install the stable as provided herein. If permitted by law, this agreement shall become a condition of approval of the requested zoning variance.



4C-EAST



4B- ~~EAST~~ SOUTH ~~EAST~~ WEST



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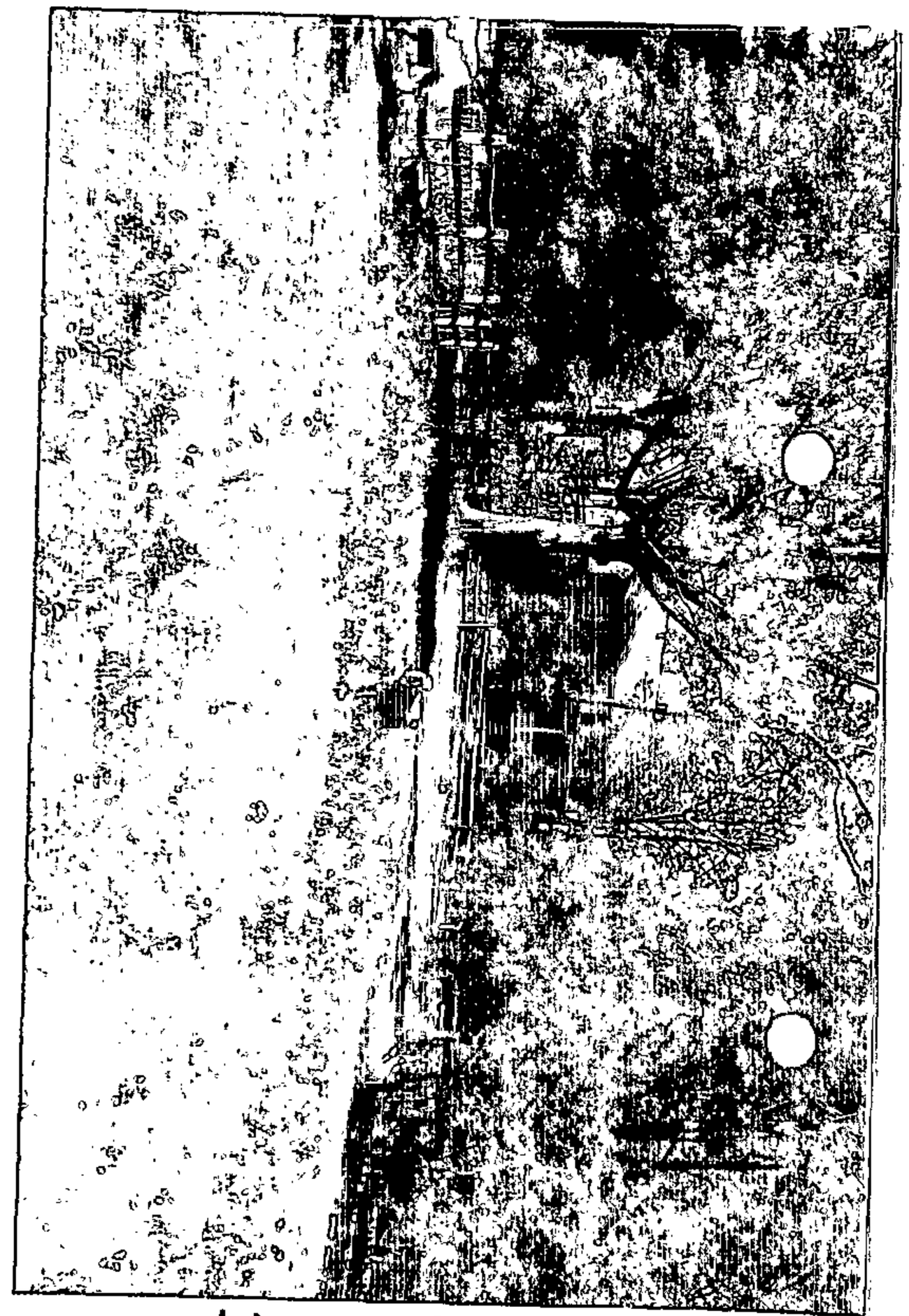
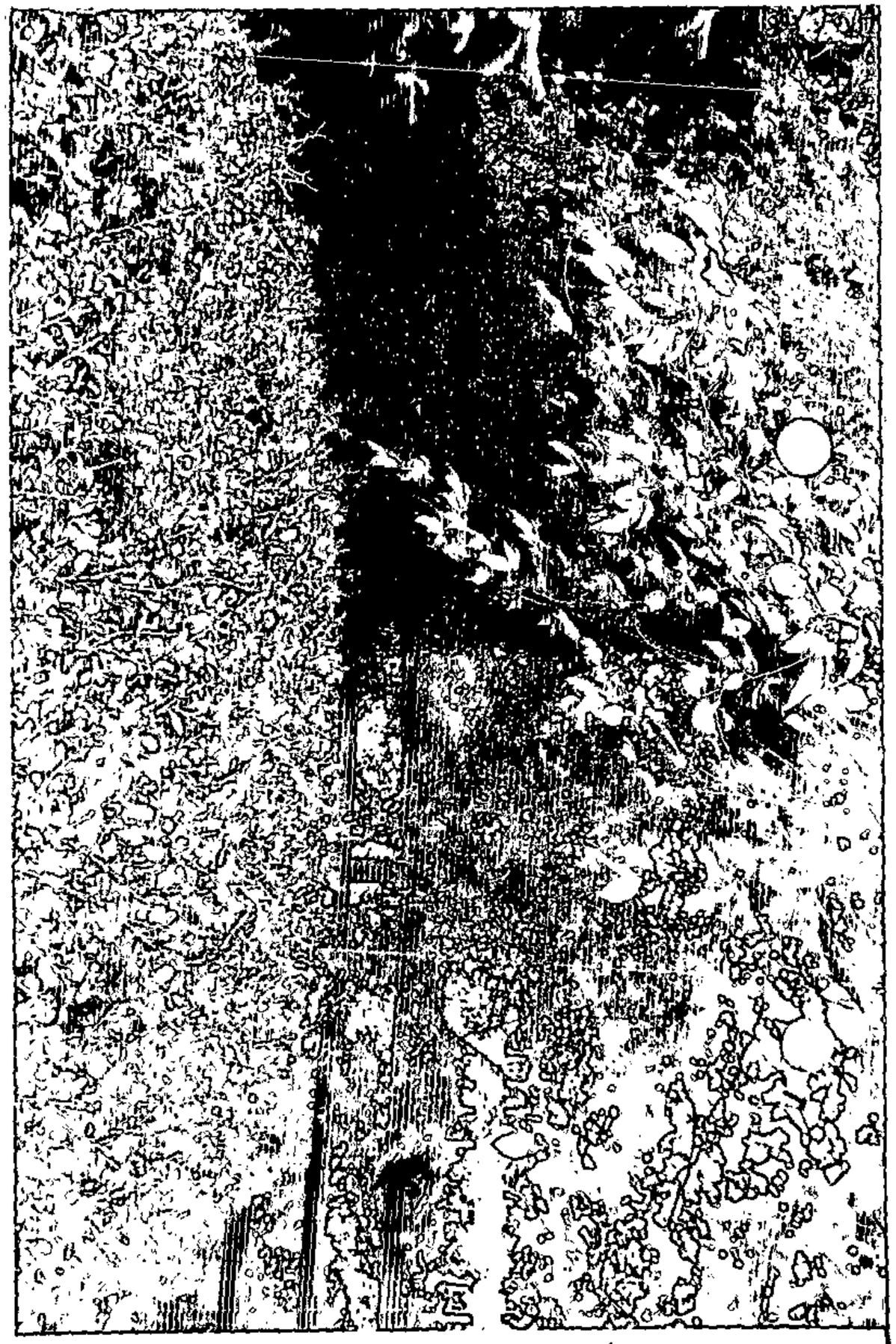


4 D - NORTH

4 A - SOUTH

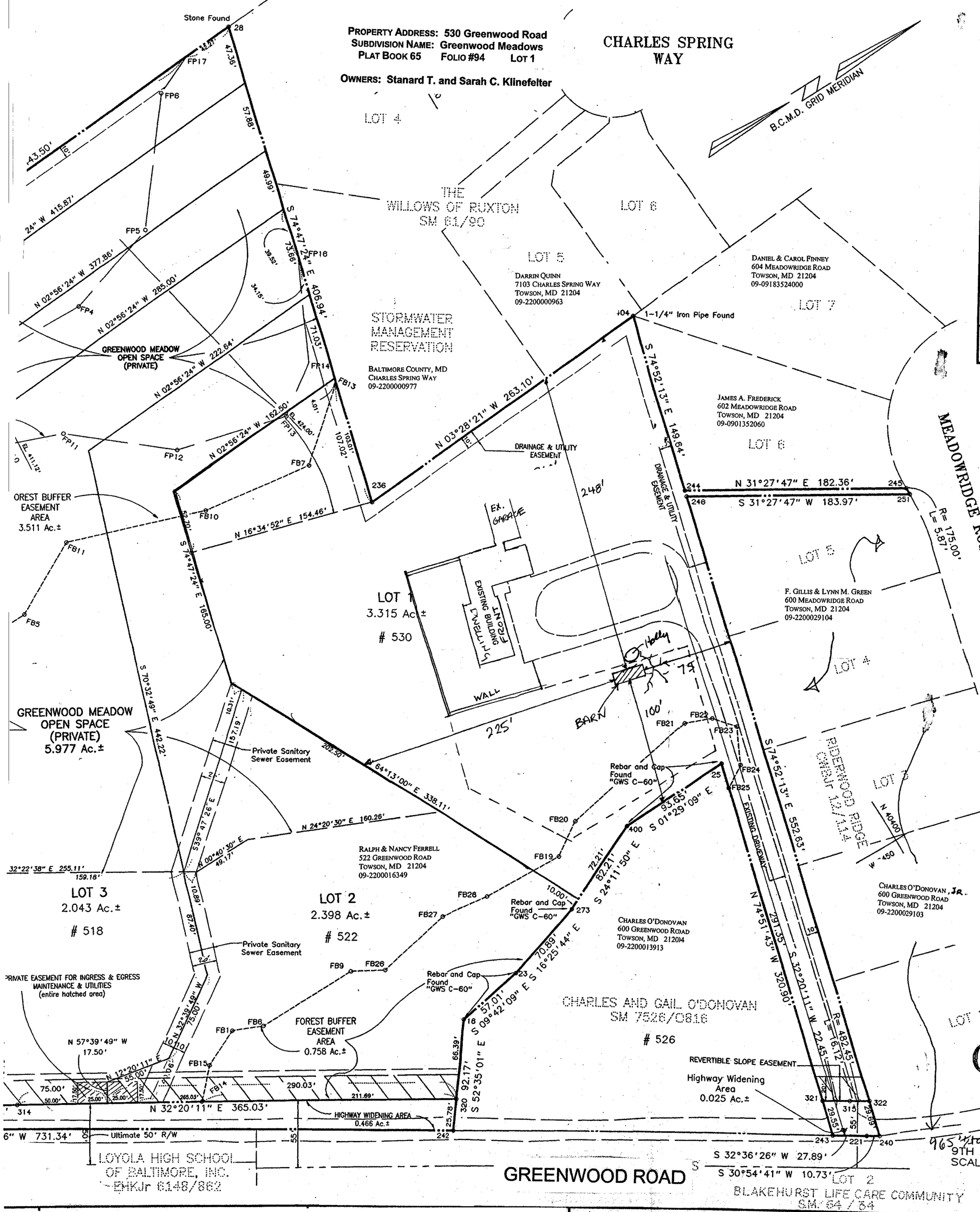


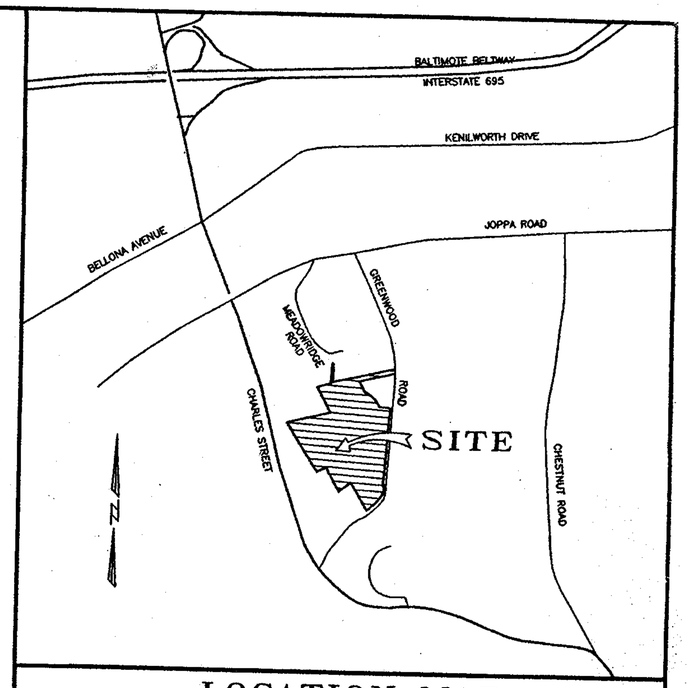
4F - SOUTHEAST

PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE

PROPERTY ADDRESS: 530 Greenwood Road
SUBDIVISION NAME: Greenwood Meadows
PLAT BOOK 65 **FOLIO #94** **LOT 1**

OWNERS: Stanard T. and Sarah C. Klinefelter





LOCATION MAP
SCALE: 1" = 500'

LOCATION INFORMATION

Election District 9
Councilman District 5th
1" – 200' Scale Map # 069C1
Zoning DR2
Lot Size 3.315 acres - 144401.4 sq. ft.

Public Sewer
Public Water

Ches. Bay Critical Area – No
100 Year Flood Plain – No
Historic Property/Bldg – No
Prior Zoning Hearing – ~~None~~
#05-225-A

Zoning Office Use Only

Reviewed by	Item #	Case #
KD		07-392-A

Filed for record
S.M. 65 FOLIO 94
Date JUN 9 1993
Test:
Clerk

PLAT OF GREENWOOD MEADOWS

9TH ELECTION DISTRICT
SCALE: 1"= 50'

BALTIMORE COUNTY, MARYLAND
MAY 3, 1993

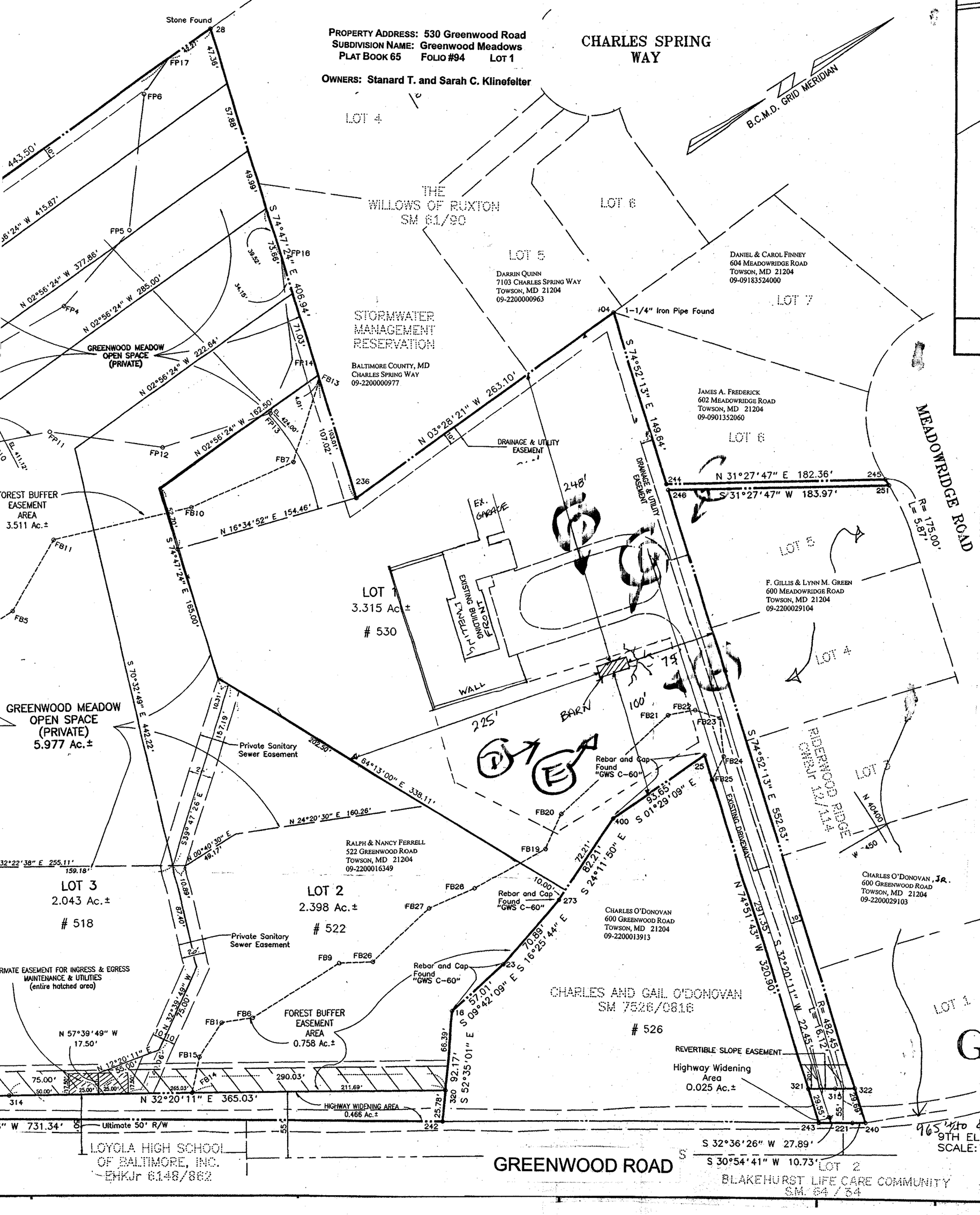
PETITIONER'S
EXHIBIT NO. 1

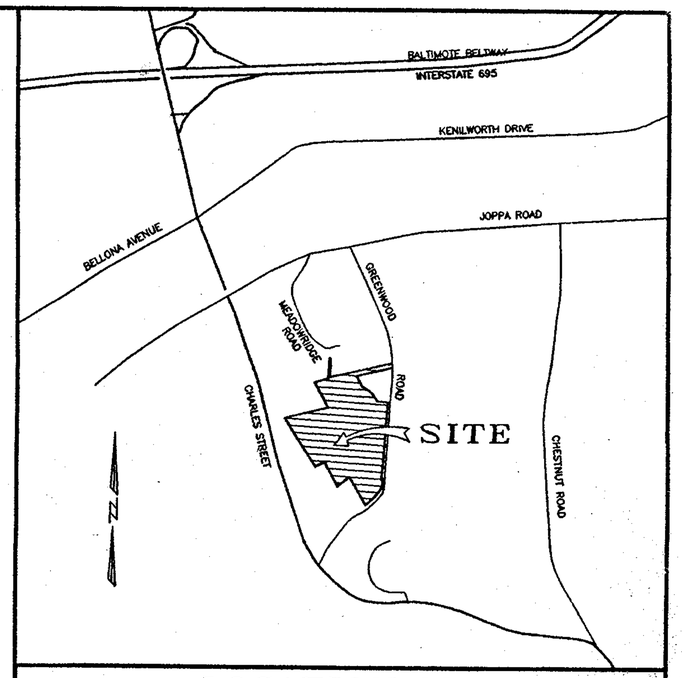
65-94

PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE

PROPERTY ADDRESS: 530 Greenwood Road
SUBDIVISION NAME: Greenwood Meadows
PLAT BOOK 65 FOLIO #94 LOT 1

OWNERS: Stanard T. and Sarah C. Klinefelter





LOCATION MAP
SCALE: 1" = 500'

LOCATION INFORMATION

Election District 9
Councilman District 5th
1" – 200' Scale Map # NW 10A & 11A
Zoning DR2
Lot Size 3.315 acres - 144401.4 sq. ft.

Public Sewer
Public Water

Ches. Bay Critical Area – No
100 Year Flood Plain – No
Historic Property/Bldg – No
Prior Zoning Hearing – None

Zoning Office Use Only

Reviewed by	Item #	Case #

PRIOR ZONING HEARINGS:
See Case No. 05-225-A, which has been stayed by the Board of Appeals pending the outcome of this Petition

Filed for record
S.M. 65 FOLIO 94
Date JUN 9 1993
Test:
Clerk

PLAT OF
GREENWOOD MEADOWS

965' W of Joppa Road
9TH ELECTION DISTRICT
SCALE: 1"= 50'

BALTIMORE COUNTY, MARYLAND
MAY 3, 1993

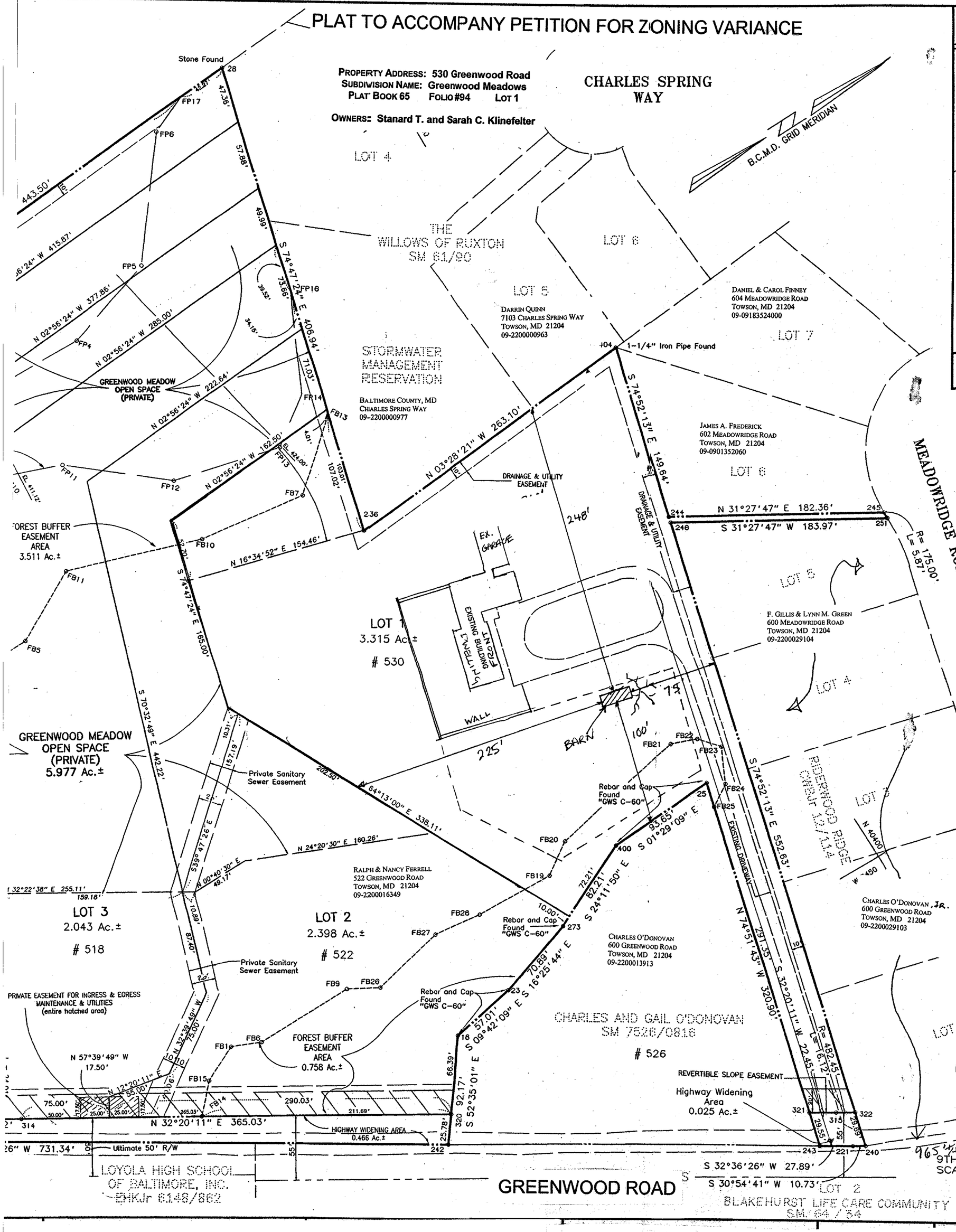
PETITIONER'S
EXHIBIT NO. 4

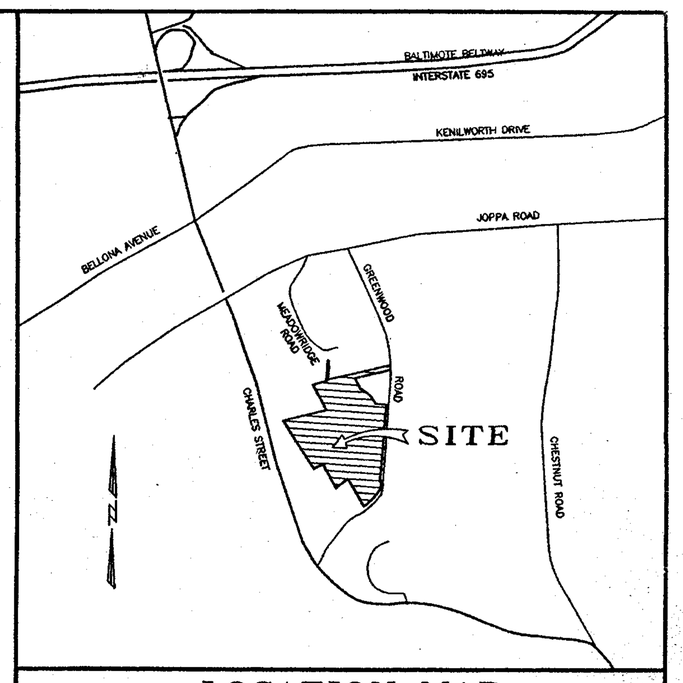
65-94

PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE

PROPERTY ADDRESS: 530 Greenwood Road
SUBDIVISION NAME: Greenwood Meadows
PLAT BOOK 65 FOLIO #94 LOT 1

OWNERS: Stanard T. and Sarah C. Klinefelter





LOCATION MAP
SCALE: 1" = 500'

LOCATION INFORMATION

Election District 9
Councilman District 5th
1" – 200' Scale Map # 069C1
Zoning DR2
Lot Size 3.315 acres - 144401.4 sq. ft.

Public Sewer
Public Water

Ches. Bay Critical Area – No
100 Year Flood Plain – No
Historic Property/Bldg – No
Prior Zoning Hearing – ~~None~~
#04-225-A

Zoning Office Use Only

Reviewed by	Item #	Case #
RJD		07-392-A

Filed for record
S.M. 65 FOLIO 94
Date JUN 9 1993
Test:
Clerk

PLAT OF GREENWOOD MEADOWS

965' to Joppa Road
9TH ELECTION DISTRICT
SCALE: 1"= 50'

BALTIMORE COUNTY, MARYLAND
MAY 3, 1993

65-94