IN RE: PETITION FOR SPECIAL HEARING

SW corner of Stevenson Lane and Kimway Road

9th Election District

5th Councilmanic District

(Foxway Terrace)

Kenneth P. Heaps

Petitioner

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO. 07-407-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

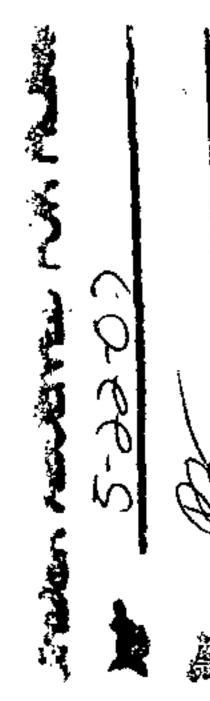
This matter comes before this Deputy Zoning Commissioner on a Petition for Special Hearing for the property located along Foxway Terrace. The Petition was filed by Kenneth P. Heaps, legal property owner. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a Public Works waiver of Standards Policy Manual VI F (sidewalks) Foxway Terrace and to amend the "1st Amended Final Development Plan Stevenson Lane".

The property was posted with Notice of Hearing on April 23, 2007, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on April 24, 2007, to notify any interested persons of the scheduled hearing date.

Applicable Law

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

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







Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Bureau of Development Plans Review dated March 19, 2007 opposing this request. ZAC comments were received from the Office of Planning dated March 28, 2007 opposing the requested relief. However, upon learning of the opposition of the residents of Foxway Terrace, the Bureau revised its comment indicating that it recommended the waiver provided the Petitioner pay to the County the sum of \$12,000.00 as shown by the e-mail dated May 15, 2007 attached hereto.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing were Jo Marvan, Patricia Sullivan, Colin Lewis, and Greg Chirikjian. Benjamin Bronstein, Esquire, represented the Petitioner. Appearing in opposition to the requested relief was John Vander Spek. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Mr. Bronstein indicated that the question in this case is whether or not the sidewalks around Foxway Terrace have to be installed by the Developer/Petitioner. Theses sidewalks are shown on the final development plan known as Stevenson Lane. See Petitioner's exhibit 1, Plat to Accompany and exhibit 2, Final Development Plan with subject sidewalks highlighted in orange. Mr. Bronstein explained that the Developer of this 10 dwelling subdivision also built and sold the homes over several years. Although the Developer installed other improvements required by the final development plan, he did not install the sidewalks along the northern edge, cul de sac and southern edge of Foxway Terrace. Apparently the County is holding the performance bond hostage until he installs the sidewalks.





Mr. Chirikjian, who owns # 7 Foxway Terrace, located on the cul de sac, expressed his opposition to installing sidewalks in front of his property. He opined that there is no need for these sidewalks, he prefers grass, sidewalks require removal of ice and snow, sidewalks encourage outsiders to walk through the neighborhood, and sidewalks do not enhance the aesthetics of the neighborhood. He presented photographs of the Foxway Terrace subdivision as now built out, Petitioner's exhibits 3 through 5, and a petition in support of the request not to build sidewalks signed by the residents of the subdivision, Petitioners' exhibit 7.

Mr. Lewis, another property owner in the subdivision, also opposed installing sidewalks based on the fact that there is no through traffic, sidewalks will not increase property value, snow plows push the snow onto the area on which sidewalks would be installed, and sidewalks add to impervious surfaces and storm water runoff.

Ms. Marvan, a nearby property owner, lives on a mirror image cul de sac off Kimway Road opposite Foxway Terrace. She testified that her subdivision (Knollwood-Donnybrook) does not have sidewalks as homeowners in her subdivision chose not to have sidewalks. She opined that having sidewalks on Foxway Terrace would be at odds with the general community and reduce green space. She presented photographs of her community as Petitioners' exhibit 6.

Mr. Vander Spek, indicated that he is a visitor to the Foxway neighborhood and supports having sidewalks installed as shown on the development plan. He indicated that as a taxpayer the developer should pay for sidewalks that are required in the development plan and not let the County or property owners foot the bill at a later time. He presented photographs of the sidewalks on Kimway Road which were built by the developer leading to the elementary school across Stevenson Lane and evidence of foot traffic on the corner of Stevenson Lane and Kimway which he opined showed the need for sidewalks. He opined that such wear and tear of the grass results in increase erosion during storms which would be particularly detrimental to Herron Run

which lies behind the subject subdivision. He indicated that he has seen evidence of such erosion on Foxway Terrace which was denied by Mr. Chirikjian.

The Planning Office indicated its opposition to the request citing sidewalks would further enhance the pedestrian connections from Foxway Terrace to Kimway Road and that sidewalks should be installed in full compliance with public works standards.

Bureau of Development Plans Review (Public Works Department) initially indicated in its March 19, 2007 comments that neither the Director of Public Works nor the Director of Permits and Development Management requested this waiver be granted, nor do they believe that a waiver hearing is warranted. However, upon learning of the opposition of the residents of Foxway Terrace, the Bureau revised its comment indicating that it recommended the waiver provided the Petitioner pay to the County the sum of \$12,000.00 as shown by the e-mail dated May 15, 2007 attached herto.

Findings of Fact and Conclusions of Law

The case invokes two pillars of Baltimore County policy. First pillar is, if a public improvement is shown on a development plan, that improvement must be built before the County will release the public bond meant to assure such improvements are constructed. The second pillar is not to impose public improvements on homeowners who do not want them. The Department of Public Works solution to this dilemma is to require the Petitioner to either install the sidewalks as required by the final development plan or to pay the cost of the sidewalks to the County which the Director of Public Works has determined to be \$12,000.00. I agree with the Department and will grant the requested waivers conditioned upon payment to the County of \$12,000.00 in lieu of installing the sidewalks. The Developer also could choose to install the sidewalks according to the development plan if he believes he can do so at a lesser cost.



I find that there has been a request of a Department Director to grant the requested waiver and further find compliance with this Public Works Standard would cause unnecessary hardship on the homeowners of Foxway Terrace. Therefore I will grant the request to waive construction of sidewalks along Foxway Terrace provided the Petitioner pay to the County the sum of \$12,000. However in the alternative if the Petitioner chooses to construct the sidewalks, he may do so according to the development plan and pay no fee in lieu to the County

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioners' request for special hearing should be granted with conditions.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this ________ day of May, 2007, that the Petitioners' request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve a Public Works waiver of Standards Policy Manual VI F (sidewalks) on Foxway Terrace and to amend the "1st Amended Final Development Plan Stevenson Lane" is herby GRANTED subject to the following conditions which are conditions precedent to the waiver of sidewalks:

1. The Petitioner shall pay to Baltimore County the sum of \$12,000.00 as directed by the Department of Public Works in lieu of providing sidewalks on Foxway Terrace; or

2. In the alternative, the Petitioner may install such sidewalks on Foxway Terrace as required by the approved development plan and pay no fee in lieu to the County.

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

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

Attachment



JAMES T. SMITH, JR. County Executive

May 22, 2007

WILLIAM J. WISEMAN III

Zoning Commissioner

BENJAMIN BRONSTEIN, ESQUIRE SUITE 205, SUSQUEHANNA BUILDING 29 W. SUSQUEHANNA AVENUE TOWSON, MD 21204

> Re: Petition for Special Hearing Case No. 07-407-SPH Property: Foxway Terrace

Dear Mr. Bronstein:

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

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

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

for Baltimore County

JVM:pz

Enclosure

c: Thomas A. Church, Development Engineering Consultants, Inc., 6603 York Road, Baltimore MD 21212 Jo Marvan, 701 Thomwood Court, Towson MD 21286

Patricia Sullivan, 909 Fairway Drive, Towson MD 21286 Colin Lewis, 6 Foxway Terrace, Towson MD 21286 Greg Chirikjian, 7 Foxway Terrace, Towson MD 21286

John Vander Speck, 9035 Harford, Baltimore MD 21234



REV 9/15/98

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

Date 3.13.0

for the property located at Foxway Terrace	
which is presently zoned	DR 3.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

a public works waiver of standards Policy Manual VIF (sidewalks) Foxway Terrace and to amend the "1st Amended Final Development Plan Stevenson Lane".

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

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County. I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Legal Owner(s): Contract Purchaser/Lessee: Kenneth P. Heaps Name - Type or Print Name - Type or Print Signature Signature Telephone No. Name - Type or Print Address City Zip Code Signature State 701 Stevenson Lane Attorney For Petitioner: Telephone No. Address 21212 Maryland Baltimore Benjamin Bronstein Zip Code State City Name - Type of Frint Representative to be Contacted: Signature Tom Church, P.E., Development Engineering Consultants, Inc. Name Company 410-377-2600 6603 York Road 410-296-0200 29 West Susquehanna Avenue, Suite 205 Telephone No. Address **Address** Telephone No. 21212 21204 Maryland Towson Maryland Towson Zip Code State Zip Code City City State OFFICE USE ONLY ESTIMATED LENGTH OF HEARING Case No. O UNAVAILABLE FOR HEARING

DEVELOPMENT ENGINEERING CONSULTANTS, INC.

Site Engineers & Surveyors

6603 York Road Baltimore, Maryland 21212 (410) 377-2600 (410) 377-2625 Fax

ZONING DESCRIPTION

FOR

FOXWAY TERRACE

BEGINNING FOR THE SAME at a point at the centerline of Kimway Road, 50 feet wide more or less, said point being at the intersection at the centerline of the nearest improved street, Thornwood Road, 50 feet wide more or less, thence the following courses and distances: 1) South 07 degrees 46 minutes 36 seconds East, 150.00 feet, 2) South 82 degrees 13 minute 24 seconds West, 25.00 feet, 3) North 07 degrees 46 minutes 36 seconds West, 50.00 feet, 4) North 52 degrees 22 minutes 51 seconds West, 35.11 feet, 5) South 83 degrees 00 minutes 54 seconds West, 178.47 feet, 6) thence a curve to the left with a radius of 40.00 feet and length of 30.55 feet, 7) thence a curve to the right with a radius of 50.00 feet and a length of 233.46 feet, 8) thence a curve to the left with a radius of 40.00 feet and a length of 30.55 feet, 9) North 83 degrees 00 minutes 54 seconds East, 177.09 feet, 10) North 37 degrees 37 minutes 09 seconds East, 35.60 feet, 11) North 82 degrees 13 minutes 24 seconds East 25.00 feet to the place of beginning.

Containing 23,250 square feet or 0.53 acres of land more or less

Also known as the public right-of-way for Foxway Terrace and a portion of the public right-of-way for Kimway Road, and situated in the 9th Election District of Baltimore County, Maryland.

Our Contract No.: 99-109S

March 5, 2007

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ND 10.24959 No.24959 No.24959	
BALTIMORE COUNTY, MARYLA OFFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT ACCOL PECEIVED FOR: FOR: DISTRIBUTION WHITE - CASHIER PINK - AGENCY YELLON WHITE - CASHIER PINK - AGENCY YELLON	

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: # 07-407-SPH
Foxway Terrace

S/west corner of Stevenson
Lane and Kimway Road
9th Election District
5th Councilmanic District
Legal Owner(s): Kenneth P.

Special Hearing: to approve a public works waiver of standards Policy Manual VI F (sidewalks) Foxway Terrace and to amend the 1st Amended Final Development Plan Stevenson Heaps

Hearing: Tuesday, May 8, 2007 at 10:00 a.m. In Room 407, County Courts Building, 401 Bosley

Building, 401 Bosley
Avenue, Towson 21204.
WILLIAM J. WISEMAN, III
Zoning Commissioner for
Baltimore County
NOTES: (1) Hearings are
Handicapped Accessible;
for special accommodations Please Contact the
Zoning Commissioner's Office at (410) 887-3868.
(2) For information concerning the File and/or
Hearing, Contact the Zoning Review Office at (410)
887-3391.
JT 4/741 Apr. 24 132809

_,205]

7, that the annexed advertisement was published THIS IS TO CERTIFY

uccessive weeks, the first publication appearing ewspaper published in Baltimore County, Md., in the following weekly n each of once in

The Jeffersonian

- Arbutus Times
- Catonsville Times
- **Towson Times**
- Owings Mills Times
- NE Booster/Reporter North County News

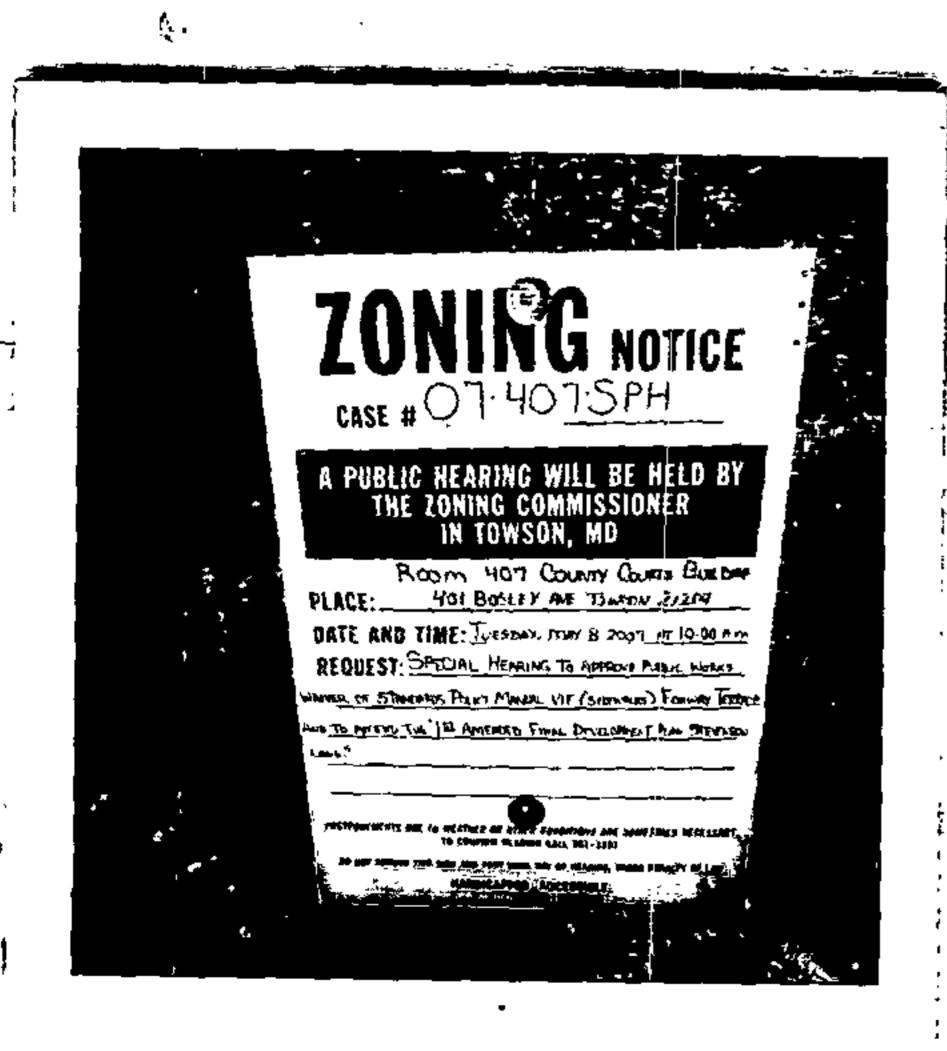
Mulus.

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 07-407-SPH

Petitioner/Developer: SENNETH Date of Hearing/Closing: ATTN: Kristen Matthews {(410) 887-3394} This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: 4-23-07 (Month, Day, Year) Sincerely,



Baltimore County Department of

County Office Building, Room 111

111 West Chesapeake Avenue

Towson, Maryland 21204

Ladies and Gentlemen:

The sign(s) were posted on

Permits and Development Management

* *		
Dobert Black	4-26	.0
(Signature of Sign Poster)	(Date)	,
SSG Robert Black		
(Print Name)_		-
1508 Leslie Road	*	٠
(Address)	* *	
Dundalk, Maryland 212	222	
(City, State, Zip Cod	e)	
(410) 282-7940		
(Telephone Number	•)	•

RECEIVED

APR 2 7 2007

07-704

DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT



JAMES T. SMITH, JR. County Executive

March 28, 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: 07-407-SPH

Foxway Terrace
S/west corner of Stevenson Lane and Kimway Road
9th Election District – 5th Councilmanic District
Legal Owners: Kenneth P. Heaps

Special Hearing to approve a public works waiver of standards Policy Manual VI F (sidewalks) Foxway Terrace and to amend the "1st Amended Final Development Plan Stevenson Lane."

Hearing: Tuesday, May 8, 2007 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco Director

TK:klm

C: Benjamin Bronstein, 29 West Susquehanna Avenue, Ste. 205, Towson 21204 Kenneth Heaps, 701 Stevenson Lane, Baltimore 21212 Tom Church, 6603 York Road; Towson 21212

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.

TO: PATUXENT PUBLISHING COMPANY

Tuesday, April 24, 2007 Issue - Jeffersonian

Please forward billing to:

Benjamin Bronstein

29 W. Susquehanna Avenue, Ste. 205

Towson, MD 21204-5218

410-296-0200

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: 07-407-SPH

Foxway Terrace S/west corner of Stevenson Lane and Kimway Road 9th Election District – 5th Councilmanic District Legal Owners: Kenneth P. Heaps

Special Hearing to approve a public works waiver of standards Policy Manual VI F (sidewalks) Foxway Terrace and to amend the "1st Amended Final Development Plan Stevenson Lane."

Hearing: Tuesday, May 8, 2007 at 10:00 a.m. in Room 407, County Courts Building,

401 Bosley Avenue, Towson 21204

WILLIAM J. WISEMAN III

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:
Item Number or Case Number: 407
Petitioner: Keninett Heads
Address or Location: Foxwar Tepace
PLEASE FORWARD ADVERTISING BILL TO:
Name: Benjamin BRONSTEIN, FJO.
Address: 29 W. SUSQUEHANNA Ave.
Suite 205
TOWSON MY 21204-5218
Telephone Number: 410 - 276 - 0200



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director

Department of Permits and

Development Management

May 3, 2007

Benjamin Bronstein 29 West Susquehanna Avenue, Suite 205 Towson, MD 21204

Dear Mr. Bronstein:

RE: Case Number: 07-407-SPH, Foxway Terrace

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on March 13, 2007.

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

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

Very truly yours,

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel Kenneth P. Heaps 701 Stevenson Lane Baltimore 21212 Tom Church, P.E. Development Engineering Consultants, Inc. 6603 York Road Towson 21212

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 (0)410-887-4880 MS-1102F

cc: File



Visit the County's Website at www.baltimorecountymd.gov

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



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

Maryland Department of Transportation

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. 7-407-5PH

FOXWAY TERRACE

HEAPS PROPERTY SPECIAL HEARING

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 7-407 9PH.

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

Very truly yours,

FOR

Steven D. Foster, Chief

Engineering Access Permits

Division

SDF/MB

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy Kotroco, Director

DATE: May 15, 2007

Department of Permits & Development Management

FROM:

Dennis A. Kennedy

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee
Item No. 07-407-SPH REVISED

At the Zoning Commissioner's request, we have again discussed this matter with the Director of Public Works.

Our previous comment called for sidewalks to be installed; however since every property owner abutting the subdivision street has signed a petition stating that sidewalks are not wanted, we will recommend that the waiver be granted, conditioned on the following. Pursuant to Code Section 32-4-308(b)(1), "Upon payment of the cost of a public improvement to the county, the county shall release the applicant from the obligation under the public works agreement for the public improvement." The Director of Public Works has determined that the cost for the County to build the sidewalk would be \$12,000.00.

In lieu of constructing the sidewalk, we will require a fixed deposit of \$12,000.00, if the waiver is granted.

DAK cc: file

SOM RECEIVED FOR PRIME SYAD-OT





DATE: March 29, 2007



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

Stevenson Lane Property

INFORMATION:

Item Number:

7-407

Petitioner:

Kenneth Heaps

Zoning:

DR 3.5

Requested Action:

Special Hearing

RECEIVED

APR - 4 2007

ZOMME COMMISSIONED

SUMMARY OF RECOMMENDATIONS:

Section 32-4-107 (Waivers) of the Baltimore County Code (BCC) states in part that the Hearing Officer may grant waivers of any or all requirements of Subtitles 3,4, and 5 of this section at the request of a department director. After researching the development plan files for the subject property, the Office of Planning was never asked nor ever initiated a request to waive the public works standards contained within the Public Works Policy Manual VI F for sidewalks. To the contrary, the provision of sidewalks was an ongoing concern for this Office as well as negotiations with the surrounding residential community during phase I of the development review process. Rationale for this provision was to enhance the pedestrian connections between the adjacent Stoneleigh Elementary School and those children within the subject development whom may matriculate there.

Sidewalks have already been provided along Kimway Road, connecting Stevenson Lane to subject property. This Office opines that there is little reason for eliminating sidewalks that would further enhance the pedestrian connections from Foxway Terrace to Kimway Road. As such, the Office of Planning requests that the petitioner's request be <u>denied</u>. Sidewalks should be installed in full compliance with public works standards.

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

Reviewed by:

Division Chief:

W:\DEVREV\ZAC\zacshell.doc

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy Kotroco, Director Department of Permits & Development Management **DATE:** March 19, 2007

FROM:

Dennis A. Kennedy

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee

Item No. 07-407-SPH

Although sidewalks are clearly shown on the development plan and were thoroughly discussed at the Hearing Officer Hearing, the developer of this property built the street and homes and then failed to install the sidewalks, and now is seeking a waiver of the requirement.

County Code Section 32-4-107 concerning waivers, begins with the phrase, "At the request of a department director, the Hearing Officer may..." Since neither the Director of Public Works nor the Director of Permits and Development Management has requested that this waiver be granted, we do not believe that a waiver hearing is warranted. Neither supports granting of the waiver.

DAK

cc: file

RE: PETITION FOR SPECIAL HEARING
Foxway Terrace; SW corner Stevenson Lane
and Kimway Road
9th Election & 5th Councilmanic Districts
Legal Owner(s): Kenneth P. Heaps

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

07-407-SPH

ENTRY OF APPEARANCE

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

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of March, 2007, a copy of the foregoing Entry of Appearance was mailed to, Thomas A. Church, P.E., Development Engineering Consultants, 6603 York Road, Baltimore, MD 21212 and Benjamin Bronstein, Esquire, 29 West Susquehanna Avenue, Suite 205, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

MAR 2 3 2007

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Рег....

BENJAMIN BRONSTEIN

ATTORNEY AT LAW
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 296-0200
FAX: (410) 296-3719
Benbronstein@terralaw.net

March 8, 2007

Timothy Kotroco, Director Dept of Permits & Development Mgt County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

RE: Foxway Terrace

Dear Mr. Kotroco:

In reference to the above-entitled property, I am hereby enclosing the following:

- 1. Petition for Special Hearing in triplicate;
- 2. Twelve (12) copies of the Plat to Accompany Petition;
- 3. Three copies of the description under seal;
- 4. Copy of the 200 Scale Zoning Map; and
- 5. Check to cover costs.

There are no violations.

Please enter my appearance on behalf of the Petitioner and advise me as to the hearing date.

Very truly yours,

Benjamin Bronstein

BB/mlh Enclosures



Andrea Freeburger - Variance Case # 7-407-SPH

From:

"Patricia Sullivan" <sullivan pat@hotmail.com>

To:

<jimsmith@co.ba.md.us>, <pde>, <pde>pdmenforce@co.ba.md.us>, <planning@co.ba.md.us>,,

<publicworks@co.ba.md.us>

Date:

4/21/2007 8:47:46 PM

Subject: Variance Case # 7-407-SPH

Ref: Department of Public Works Waiver request Case # 7-407-SPH, Hearing is on May 8,

I solicit your support to inteviene on a waiver for sidewalks as it concerns public sidewalks for a heavily traveled route to school, buse routes, and work places. Letter attached, hard copy in the mail.

Patricia A. Sullivan, CFM

909 Fairway Drive Towson, MD 21286-7902

Phone: 410-339-4617 Mobile: 443-802-5005

Get a FREE Web site, company branded e-mail and more from Microsoft Office Live!

Patricia A. Sullivan 909 Fairway Drive Towson, MD 21286-7902 sullivan_pat@hotmail.com

April 21, 2007

Baltimore County Office Building Depart of Permits & Zoning 111 West Chesapeake Ave, STE # 105 Towson, MD 21204 Attn: Timothy M. Kotroco, Director

Re: Case # 7-407-SPH

Ref: Public Works New Development Standards

Locations: Stevenson Lane; Kimway; Foxway Terrace.

Dear Mr. Kotroco:

Another waiver/ variance request by a developer hoping to avoid construction costs and community improvements. I am sure there are more than we could ever track or address properly, however, this is an easy one and I hope you can help our neighborhood encourage construction with the community's interest at heart by asking the developer in this variance request conform to the required site development which included sidewalks.

At the time of this development Mr. Heaps was required to install a sidewalk on Kimway at the intersection of Stevenson Lane, especially since this area is a passage way for school children to Stoneleigh Elementary School. Fortunately, he complied. He did not, however, continue the sidewalk on Kim way or on Stevenson Lane which borders his property and should have been included in the stipulation.

Case # 0-407-SPH Foxway Terrace is a waiver request for the developer to not build sidewalks within the 6 home cul de sac community. Many home owners and myself included are willing to forego the sidewalks within the cul de sac, however, the developer should complete the required sidewalks for this new development on Stevenson Lane that borders this property/development.

Stevenson Lane is heavily traveled by foot traffic: it is the route for many school children to Stoneleigh Elementary School; the public that catch the buses on York Road; and who work in the area including the Country Club of Maryland on Stevenson Lane. The Public Works department requires that any development of new homes include new sidewalks. Ref Public Works standard policy manual VI-F sidewalks.

I am opposed to granting this waiver for sidewalks, with emphasis on the missing sidewalk that should have been built on Stevenson Lane.

Sincerely,

Patricia A. Sullivan

Cc: Planning Dept: Kevin Gambrill; Fay Citerone, Pres KDIA; James Smith County Exec.; Vince

Gardina, 5th District Councilman

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PLEASE PRINT CLEARLY

DATE .	CASE NUMBER	CASE NAME

PETITIONER'S SIGN-IN SHEET

										San Brownstein	NAME
						-				29 W. Luceraha	ADDRESS
										21200	CITY, STATE, ZIP
									The same of the same	Denter at a form	E- MAIL

CASE NAME	
CASE NUMBER	
DATE	

CHEENS SIGN-IN SHEET

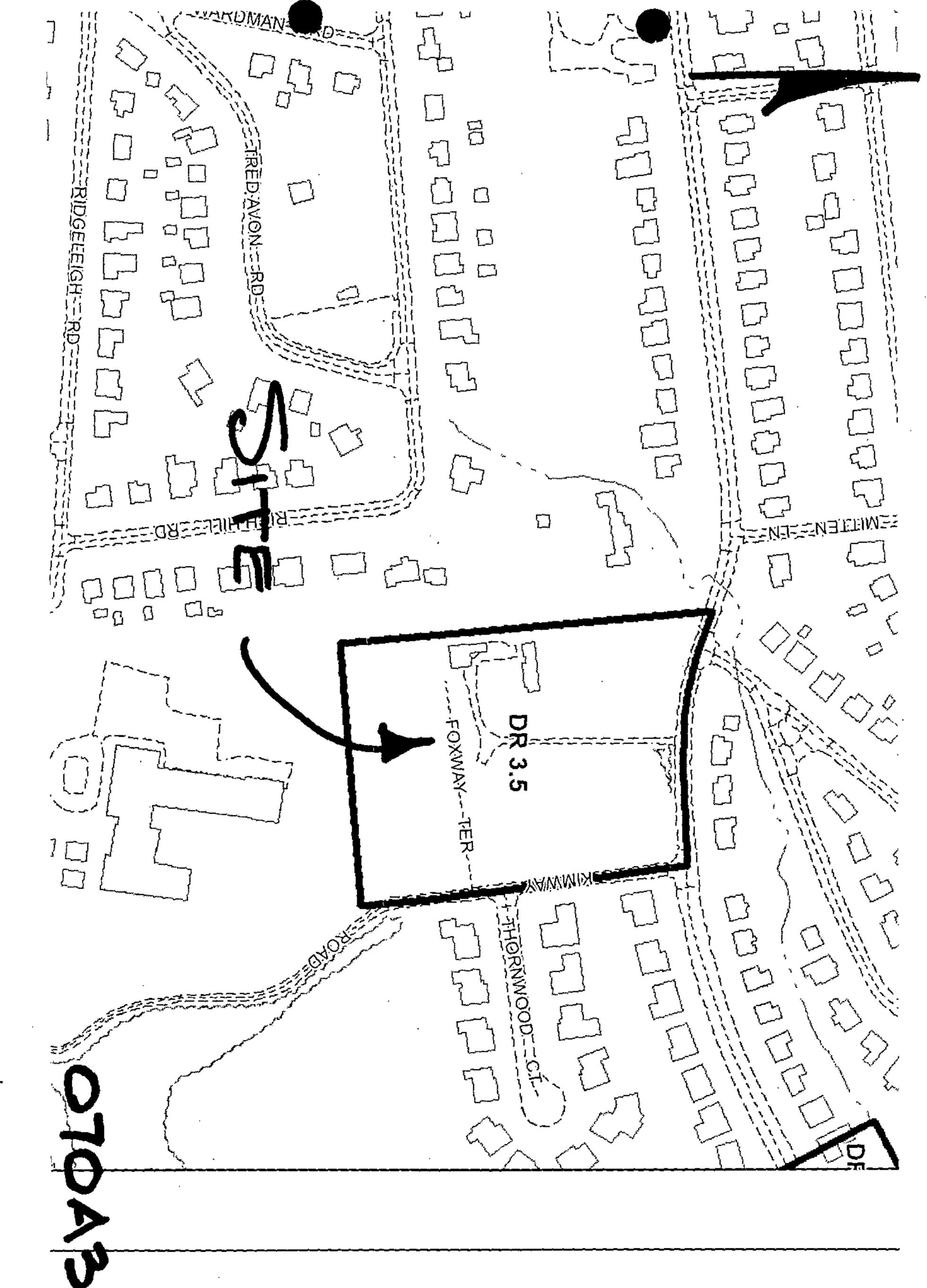
								<u> </u>	tatricia Julinas	M V	NAME
									C FOX WAY TABLE	To Thomisson Ct.	ADDRESS
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PLEASE PRINT CLEARLY

DATE	CASE NUM	CASE NAME
	NUMBER	

CHIZEN'S SIGN-IN SHEE!

											NAME Der SPEX
										GES Mus Dans	ADDRESS
										Malt Co 21234	CITY, STATE, ZIP
											E- MAIL



1 = 200

more people will walk thru - aesther - not enhance Peter 3 - Dolo et 44 - Dilrecto Forway Terrate Piet 45 I veril from Promuest Ct Varder Speek - leves on Harford Ad Profler - hewis - elemenate redoce all-resident - no wolve ob no thue treffer - anow flows push snow onto Orea when - all to impervous surface Thomusod Ct -Marian Muror mageire

Z.

- no sidewalks mone built -honeowners have schoele-yesono Knollevood Donnybrook - odd to have on once with / others - reduces gransface Thanwood Ct sidewalks - not constructed then sold brown Vander Spok County specified sidwolks — Herron Rein EDA - Boot traffic / solvol crossing - in friture County will be Drett 1 Dide wall 10 62 A

Poro # 3A - Alrow fool as country resident Ceroa EPA - area - erosion - will continue pool braffix - erosion war bid! cross - luis addresse
9613 Harbord Rd - several miles away Plany eroseon
A - yess menoi side of udoways D'ams eroseon along Formeray Debuttel:

Christay

any foot path along for side u

A - more no indication Volt At 7 Pulition - in support signed on Devil Plani

auty ofpold Donatein - no addressed to sidewalks - devel County Code recodifiéed - substatue Thomwood - Ct - no redewall

07-407-504 20-40945744 Bon Brontein Go. P John Vanda Speele-Afro Swell subdivision Slovens - side wall service 10 Ironese within cel de see Brog Cherilyian - #7 Supports Putition - does not ivalled evalles - prefer grass

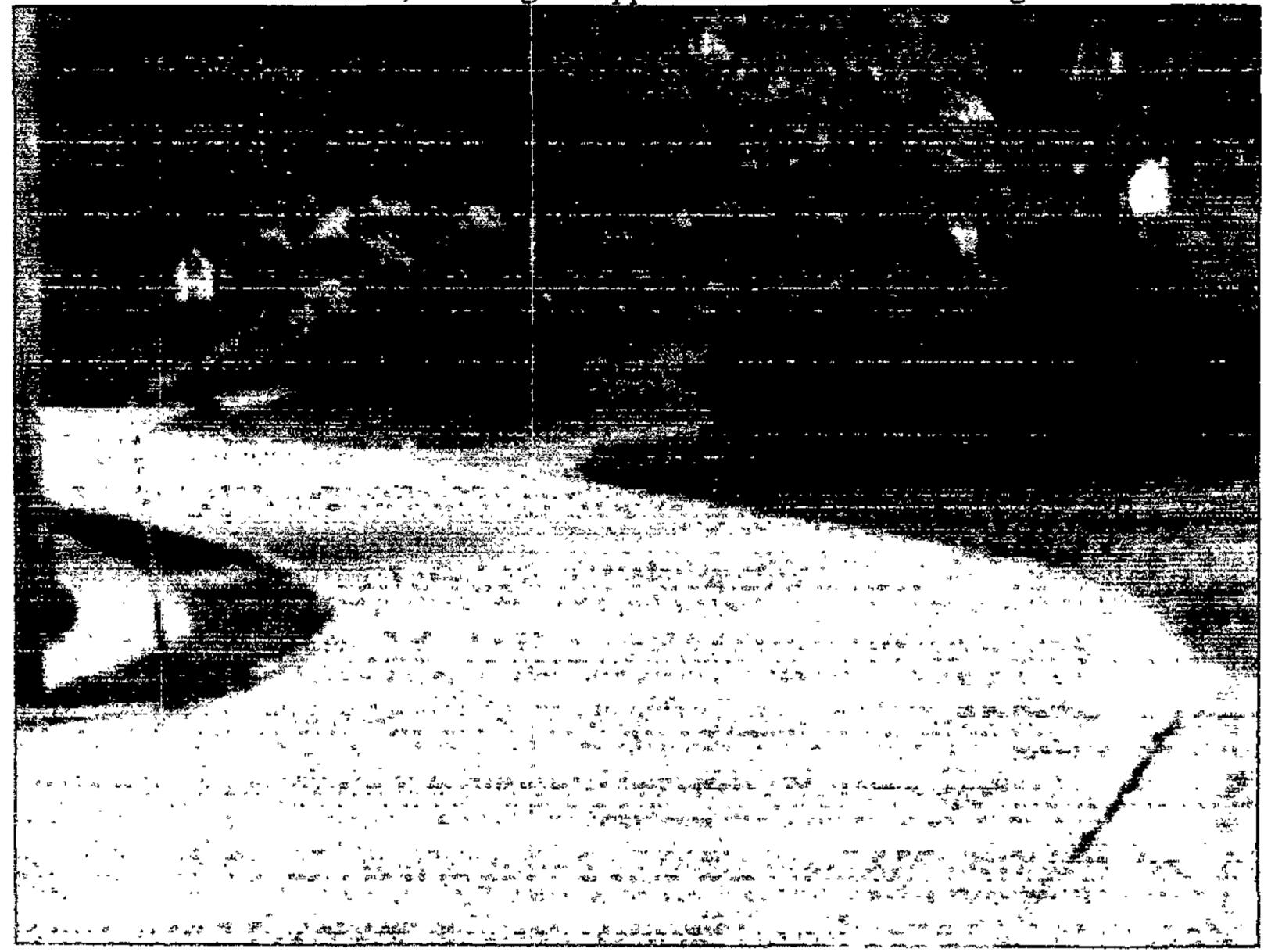
- no need for selewalked

- causes problem - eary eventer - love continuation of sidewalk at Kimway

Q Stevenson

Drott

a few feet further eastbound, showing the approach to the actual crossing area



ou a lever som

Dro # 2A

Art .

a few feet further eastbound, showing the crossing warning sign area



on Slevenson

Drott 2B

view in opposite direction

DOD DD



NO NO

view west on Stevenson Lane, from Kimway, showing active footpath leading to road shoulder, lack of sidewalk – and demonstrating the need for that sidewalk for school children and pedestrian safety

note paint marking a curbing line

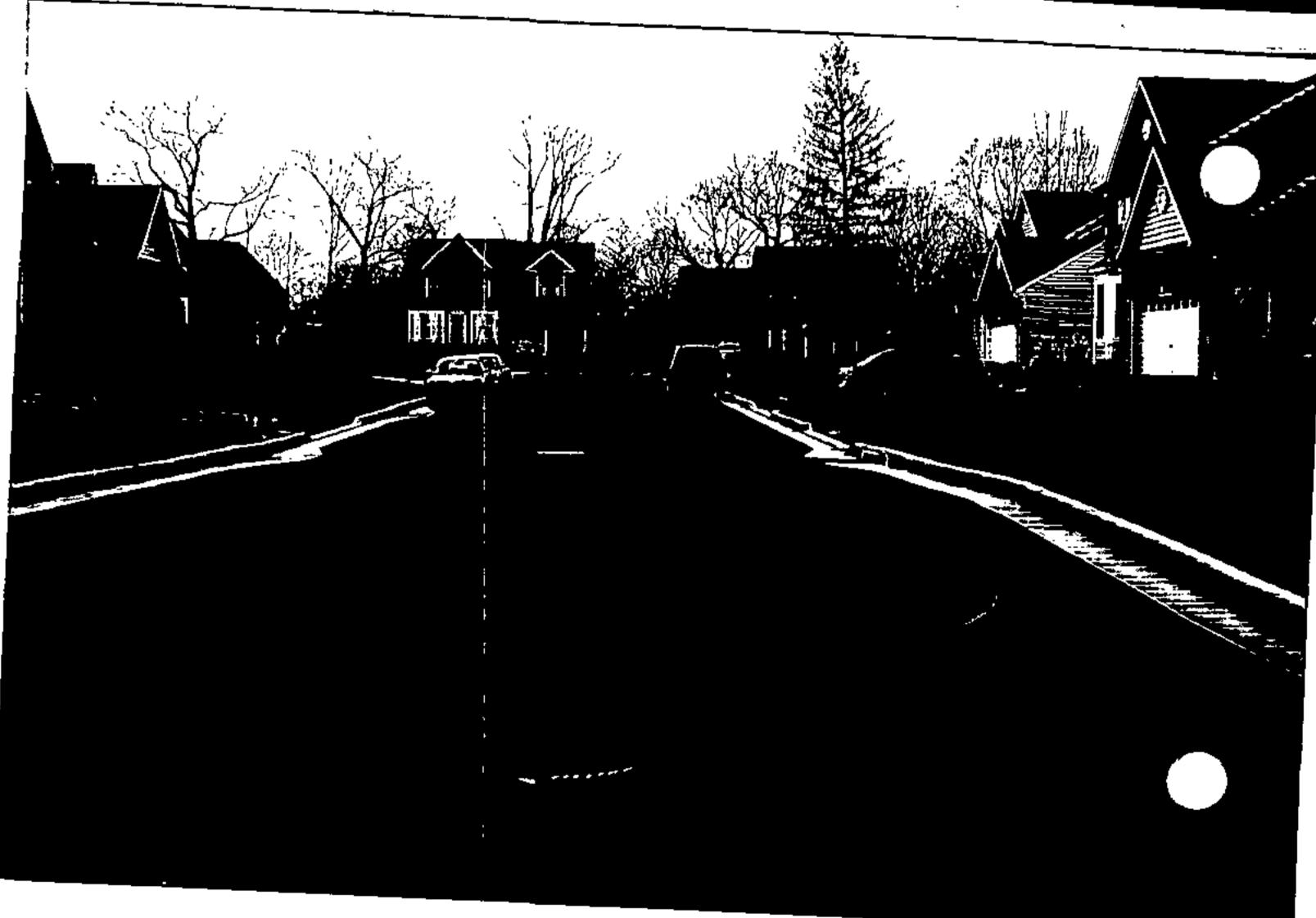


another view west on Stevenson Lane, from Kimway, showing active footpath leading to road shoulder, lack of sidewalk – and demonstrating the need for that sidewalk for school children and pedestrian safety

on shevenson

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



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
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















ELECTION DISTRICT #: 9 1 COUNCILMANIC DISTRICT #:5 1"=200' SCALE MAP #: 70A3 ZONING: DR-3.5 LOT SIZE: 23,250 S.F. = 0.53Act

DRC 022GOIT REQUEST: LOT LINE ADJUSTMENT, DECISION: APPROVED ZONING OFFICE USE ONLY

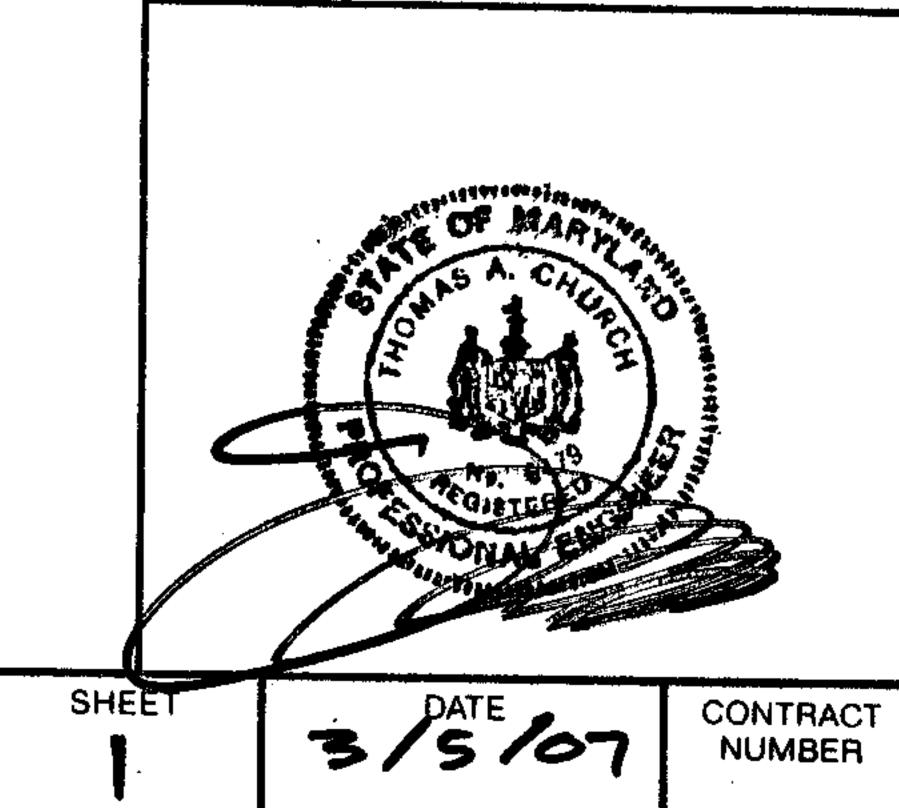
CASE #

REVIEWED BY

CHESAPEAKE BAY CRITICAL AREA

PRIOR ZONING HEARINGS:

THE SUBJECT SITE IS NOT ADVERSELY AFFECTED BYA 100 YEAR FLOODPLAIN.



REVISIONS

DEVELOPMENT ENGINEERING CONSULTANTS, INC. SITE ENGINEERS & SURVEYORS 6603 YORK ROAD 410-377-2600 BALTIMORE, MARYLAND 21212

APPLICANT
KENNETH P. HEAPS
JOI STEVENSON L.
BALTIMORE MD 21212

PLAT TO ACCOMPANY PETITION FOR ZONING SPECIAL HEARING FOXVAY

LELECTION DISTRICT Nº 904

TERRACE

