IN RE: PETITIONS FOR SPECIAL EXCEPTION, SPECIAL HEARING & VARIANCE	*	BEFORE THE
N side Berrymans Lane, 255 feet E c/l Deer Park Road	*	DEPUTY ZONING COMMISSIONER
4th Election District	*	OF BALTIMORE COUNTY
4th Councilmanic District		
(5701 Deer Park Road)	*	
Joel M. and Xandra L. Simonds, Trustees *Legal Owner*	*	
Jay Simonds *Contract Purchaser*	*	CASE NO. 07-411-SPHXA

* * * \

Applicable Law

Section 502.1 of the B.C.Z.R. *Special Exceptions*

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

A. Be detrimental to the health, safety or general welfare of the locality involved;
B. Tend to create congestion in roads, streets or alleys therein;
C. Create a potential hazard from fire, panic or other danger;
D. Tend to overcrowd land and cause undue concentration of population;
E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
F. Interfere with adequate light and air; [Bill No. 45-1982]
G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the sprit and intent of these Zoning Regulations; [Bill No. 45-1982]
H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor [Bill No. 45-1982]
I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 zone. [Bill No. 74-2000]

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.

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

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

5-11-02

County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment letter was received from the Office of Planning dated April 9, 2007. It is unclear to the Office of Planning why the Petitioner is requesting a 5 foot front yard setback in lieu of the required 25 feet and to permit the use of gravel or hot mix asphalt as turf cover in the designated processing area. The Petitioner should provide some sort of explanation for this request. As such the Planning Office cannot make a recommendation with respect to the Petitioner's variance request. That Office does not oppose the Petitioner's special hearing and exception request to permit 2 principal uses (landscape operation and residential) on the subject site provided the Petitioner (owner) of the landscaping business is the primary occupant of the residential use. ZAC comments were received from the Department of Environmental Protection and Resource Management dated May 8, 2007 and contains restrictions. Copies of these comments are incorporated herein and made a part hereof the file.

Interested Persons

Appearing at the hearing on behalf of the variance and special exception requests was Jay Simonds, Contract Purchaser. Lawrence Hammond, Esquire, represented the Petitioners. There were no protestants or citizens at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The subject parcel contains 2.475 acres zoned RC 4 and is improved by a single family dwelling and the Petitioner's landscape business. The subject parcel is part of lot 2 of the

5-11-07

Simonds Property Subdivision which has a total area of 10.92 acres. The Petitioners home is located on adjacent lot 1.

Mr. Hammond indicated that lots 1 and 2 along with a large retail/nursery business located on the south side of Berryman's Lane have been owned by the Simonds family for many years. He further indicated that as part of the Petitioner's business plan for the whole area, the Petitioner plans to separate the landscaping business from the nursery/retail business and to intensify the landscape business to some degree. See Petitioner's exhibit 1 for the location and listing of the existing structures on the subject parcel which includes a dwelling which Mr. Hammond opined was built between 100 and 150 years ago obviously before zoning was imposed. As was the custom the front porch is only 5 feet from the front property line/right of way of Deer Park Road whereas the later imposed regulations require 25 feet. See Photographs exhibits 2A through 2C.

Mr. Simonds indicated that he now can purchase asphalt millings which are produced when large milling machines scrape asphalt roads to reduce the depth of material prior to application of new asphalt. He indicated that the millings take the form of asphalt paving when applied to an area but are much more porous to rain water and relatively dustless. Use of this material would lessen the amount of impervious surface for the parking and loading area which is very compatible with the watershed protection goals of RC 4. Remarkably paving using millings can be striped so that the safety concerns of unstructured parking can be avoided. He pointed out that only employees will be on the subject parcel and not the general public.

In regard to the special hearing, Mr. Hammond indicated that the dwelling and landscape business have coexisted for many years on the parcel, that approving the special hearing to allow two principal uses would not adversely affect the community and was within the spirit and intent

of the RC 4 regulations. In addition the site is buffered from view by persons on the public roads by existing evergreen plantings as shown on the site plan and photographs 3A and 3B.

Finally Mr. Hammond opined that the request to approve a special exception for landscape service operations met the criteria of Section 502.1 of the BCZR, would not adversely affect the community and was within the spirit and intent of the regulations. Again the landscape operation has existed on the parcel for many years and is a service to the community. The Planning Office supports the request for special exception and special hearing.

Findings of Fact and Conclusions of Law

In regard to the request for property line setback (front), I have no reason to doubt the proffer that the dwelling on the parcel predates zoning in the County and was located very close to the road right of way as was common practice in years past. This makes the property unique in a zoning sense. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. This dwelling was erected much before zoning was imposed on the area. The imposition of zoning on this property disproportionably impacts the subject property as compared to others in the zoning district.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Clearly it would be impractical to move the house back another 20 feet.

No increase in residential density beyond that otherwise allowable by the Zoning Regulations will occur as a result of granting this variance as the dwelling has been there for many years.

Finally, I find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety

5-11-02

and general welfare. The residence has been 5 feet off the roadway for many years and so there will be no change to the character of the neighborhood.

In regard to the request to allow gravel or asphalt milling material for driveways, parking and loading spaces, I accept the uncontested testimony that asphalt milling surfaces are essentially dustless, durable and can be striped. In addition they lessen impervious runoff which is particularly important in the RC 4 zone. Therefore I find that use of asphalt milling surfaces meets the spirit and intent of Section 409.8 A 2 and no variance is necessary. As indicated at the hearing this same statement cannot be said of gravel or crusher run surfaces because of the dust they produce and inability to stripe. Consequently I will deny the request for variance for asphalt milling surfaces as unnecessary, and deny the request to allow gravel as this may adversely affect the health, safety and welfare of the community.

In regard to the request for special hearing, the dwelling and landscape business have coexisted for many years on the parcel. The site is buffered from view by persons on the public roads by existing evergreen plantings as shown on the site plan and photographs 3A and 3B. Consequently I will approve the special hearing to allow two principal uses on the same parcel as I find these two uses would not adversely affect the community and are within the spirit and intent of the RC 4 regulations.

I understand the landscaping business has been an adjunct of the nursery and retail business across Berryman's Lane for many years and the Petitioner would like to recognize it as a separate business. Considering the testimony and evidence I find there will be no adverse impact on the community to continue and expand the existing landscape business on site, that the site plan meets the criteria of Section 502.1 of the BCZR and is within the spirit and intent of the RC 4 regulations.

5-1102

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' requests for special exception and special hearing should be granted and the request for variance should be denied as unnecessary.

THEREFORE, IT IS ORDERED, this 11th day of May, 2007, by the Deputy Zoning Commissioner, that the Petitioner's request for variance from Section 1A03.4.B.2.a to permit an existing residential principal building to have a front yard setback of five (5) feet in lieu of the required twenty-five (25) feet is hereby GRANTED; and

IT IS FURTHER ORDERED, that the Petitioners variance request from Section 409.8. A 2 to permit the use of gravel or hot mix asphalt millings for surfaces located in the processing area is hereby DENIED as I find use of asphalt milling surfaces meets the spirit and intent of Section 409.8. A 2 for durable and dustless surface and further that gravel or crusher run surfaces may adversely affect the community because of potential dust and difficulty of striping; and

IT IS FURTHER ORDERED that the Petitioner's request for Special Hearing to approve two (2) principal uses (landscape service operations and residential dwelling) on the subject property be and is hereby GRANTED; and

IT IS FURTHER ORDERED, that the Special Exception for a landscape service operation, pursuant to Section 1A03.3B.11 of the Baltimore County Zoning Regulations is hereby GRANTED subject to the following conditions:

1. The Petitioners may apply for their permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. 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).
3. Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

ORDER RECEIVED FOR FILING
Date 5-11-02
By

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

May 11, 2007

WILLIAM J. WISEMAN III
Zoning Commissioner

LAWRENCE M. HAMMOND, ESQUIRE
HAMMOND & HAMMOND LLC
456 MAIN STREET
PO BOX 569
REISTERSTOWN MD 21136

Re: Petitions for Special Exception, Special
Hearing and Variance
Case No. 07-411-SPHXA
Property: 5701 Deer Park Road

Dear Mr. Hammond:

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

JVM:pz

Enclosure

c: Joel M. and Xandra L. Simonds, 33416 Pennbrooke Pkwy., Leesburg, FL 34748
Jay Simonds, 5715 Deer Park Road, Reisterstown MD 21136

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 5701 Deer Park Road

which is presently zoned RC-4

*(This petition **must** be filed in person, in the zoning office, in triplicate, with original signatures.)*

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

(This box to be completed by planner)

the Petitioner's request for two (2) principal uses (Landscape Service Operations and Residential dwelling) on the subject property

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.

Contract Purchaser/Lessee:

Jay Simonds
Name - Type or Print

Signature

5715 Deer Park Road (410) 790-8500
Address Telephone No.

Reisterstown Maryland 21136
City State Zip Code

Legal Owner(s):

Joel M. Simonds, Trustee
Name - Type or Print

Signature

Xandra L. Simonds
Name - Type or Print

Signature

33416 Pennbrooke Parkway (352)323-0782
Address Telephone No.

Leesburg, Florida 34748
City State Zip Code

Attorney For Petitioner:

Lawrence M. Hammond
Name - Type or Print

Signature

Hammond & Hammond, LLC
Company

465 Main Street, P.O. Box 569 (410) 833-7576
Address Telephone No.

Reisterstown Maryland 21136
City State Zip Code

Representative to be Contacted:

Jay Simonds
Name

5715 Deer Park Road (410) 790-8500
Address Telephone No.

Reisterstown Maryland 21136
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 07-411-SPHXA

REV 9/15/98

Reviewed By LTM Date 3/14/07

FILING RECEIVED FOR FILING

5/11/07

pm

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 5701 Deer Park Rd

which is presently zoned RC-4

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 Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

Landscape service operations, pursuant to Section 1A03.3B.11 of the Baltimore County Zoning Regulations.

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Exception, 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:

Jay Simonds
Name - Type or Print

Signature

5715 Deer Park Rd (410) 790-8500
Address Telephone No.

Reisterstown, MD 21136
City State Zip Code

Legal Owner(s):

Joel M. Simonds, Trustee
Name - Type or Print

Signature

Xandra L. Simonds, Trustee
Name - Type or Print

Signature

33416 Pennbrooke Prwy (352)323-0782
Address Telephone No.

Leesburg, Florida 34748
City State Zip Code

Attorney For Petitioner:

Lawrence M. Hammond
Name - Type or Print

Signature

Hammond & Hammond, LLC
Company

465 Main Street, PO Box 569 (410)833-7576
Address Telephone No.

Reisterstown, MD 21136
City State Zip Code

Representative to be Contacted:

Jay Simonds
Name

5715 Deer Park Rd (410) 790-8500
Address Telephone No.

Reisterstown, MD 21136
City State Zip Code

Case No. 07-411-SPHXA

REV 09/15/98

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By LM Date 3/19/07

PLEASE RECEIVED FOR FILING
Date 5-11-07
By PM

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 5701 Deer Park Road
which is presently zoned RC-4

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)

1A03.4.B.2.a of the Baltimore County Zoning Regulations to permit an existing residential principal building to have a front yard set back of five (5') feet in lieu of the required twenty-five (25') feet
(please see attached continuation page)

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

to be discussed at hearing

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Jay Simonds
Name - Type or Print

Signature

5715 Deer Park Rd (410) 790-8500
Address Telephone No.

Reisterstown, MD 21136
City State Zip Code

Legal Owner(s):

Joel M. Simonds, Trustee
Name - Type or Print

Signature

Xandra L. Simonds, Trustee
Name - Type or Print

Signature

33416 Pennbrooke Prwy (352)323-0782
Address Telephone No.

Leesburg, Florida 34748
City State Zip Code

Attorney For Petitioner:

Lawrence M. Hammond
Name - Type or Print

Signature

Hammond & Hammodd, LLC
Company

465 Main St,PO Box 569 (410)833-7576
Address Telephone No.

Reisterstown, MD 21136
City State Zip Code

Representative to be Contacted:

Jay Simonds
Name

5715 Deer Park Rd (410) 790-8500
Address Telephone No.

Reisterstown, MD 21136
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 07-411-SPHXA

Reviewed By LTM Date 5/14/07

REV 9/15/98

PLEASE RECEIVED FOR FILING
Date 5-11-07
By BM

and to permit the use of gravel or hot mix asphalt millings for surfaces located in the processing area.

#411

SIMONDS PROPERTY
5701 DEER PARK ROAD
REISTERSTOWN, MD 21136
4TH ELECTION DISTRICT 4TH COUNCILMATIC DISTRICT

Special Hearing, Variance !

SPECIAL EXCEPTION AREA REQUEST

ZONING DESCRIPTION

Beginning at a point on the north side of Berryman's Lane which is approximately 77 feet wide at a distance of 255 feet east of the centerline of the nearest intersecting street, Deer Park Road (approximately 60 feet wide) thence the following courses and distances:

1. By a curve to the right with a radius of 5694.58 feet, an arc length of 37.00 feet and a chord bearing of S67°-54'-00W and length of 37.00 feet.
2. S 68°-05'-10"W 171.27 feet
3. By a curve to the right with a radius of 258.82 feet, an arc length of 30.11 feet and a chord bearing of S71°-25'-39"W and length of 30.10 feet.
4. S 02°-20'-06" E 20.48 feet
5. S 77°-06'-32" W 40.69 feet
6. S 87°-39'-54" W 43.00 feet
7. N 80°-34'-00" W 33.69 feet
8. N 76°-25'-56" W 41.59 feet
9. N 02°-20'-06" W 15.60 feet
10. N 76°-23'-25" W 56.52 feet
11. N 14°-55'-57" E 199.73 feet
12. N 34°-34'-49 E 195.71 feet
13. S 43°-25'-11" E 79.48 feet
14. N 65°-05'-10" E 102.03 feet
15. S 24°-54'-50" E 292.00 feet

To the point of beginning.

Being 2.475 Acres and part of Lot No. 2 of the Simonds Property Subdivision recorded in Baltimore County Plat Book SM No. 1 Folio No. 20 containing 10.9235 acres in the lot.

Also known as 5701 Deer Park Road and located in the Fourth Election District.

STATE OF MARYLAND
ROBERT L. GREEN II
No. 21174
PROFESSIONAL LAND SURVEYOR

Date: 11/13/06

Robert L. Green, II
Professional Land Surveyor
Maryland Registration No. 21174

411

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 24963

001

DATE 3/14/07 ACCOUNT 1006 6150

AMOUNT $ 800.00

RECEIVED FROM: HAMMOND HAMMOND LLC

FOR: 07-411-SPHXA

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
3/14/2007	3/14/2007	09:21:21	1

SES WS01 WALKTH SPEC DTR
>>RECEIPT # 123826 3/14/2007 OFLO
Dept 5 PDZ ONLINE VERIFICATION
CR Nr. 024963
Recpt Tot $800.00
$800.00 CH $0.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

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: #07-411-SPHXA
5701 Deer Park Road
N/side of Berrymans Lane, 255 feet east of centerline of Deer Park Road.
4th Election District - 4th Councilmanic District
Legal Owner(s): Joel M. & Xandra L. Simonds
Contract Purchaser: Jay Simonds

Special Hearing: to approve the Petitioner's request for two principal uses (Landscape Service Operations and Residential dwelling) on the subject property. **Special Exception:** for a landscape service operation pursuant to Section 1A03.3B.11 of the Baltimore County Zoning Regulations. **Variance:** to permit an existing residential principal building to have a front yard setback of five feet in lieu of the required 25 feet and to permit the use of gravel or hot mix asphalt millings for surfaces located in the processing area.

Hearing: Wednesday, May 9, 2007 at 2:00 p.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) 887-3868.
(2) For Information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT/4/761 Apr. 24 132996

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

CERTIFICATE OF [redacted]TING

RE: Case No.: 07-411-SPHXA

Petitioner/Developer:
JAY SIMONDS/
JOEL M. & XANDRA L SIMONDS/
LAWRENCE HAMMOND
Date of Hearing/Closing: 5/9/07

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 W. Chesapeake Avenue
Towson, MD 21204

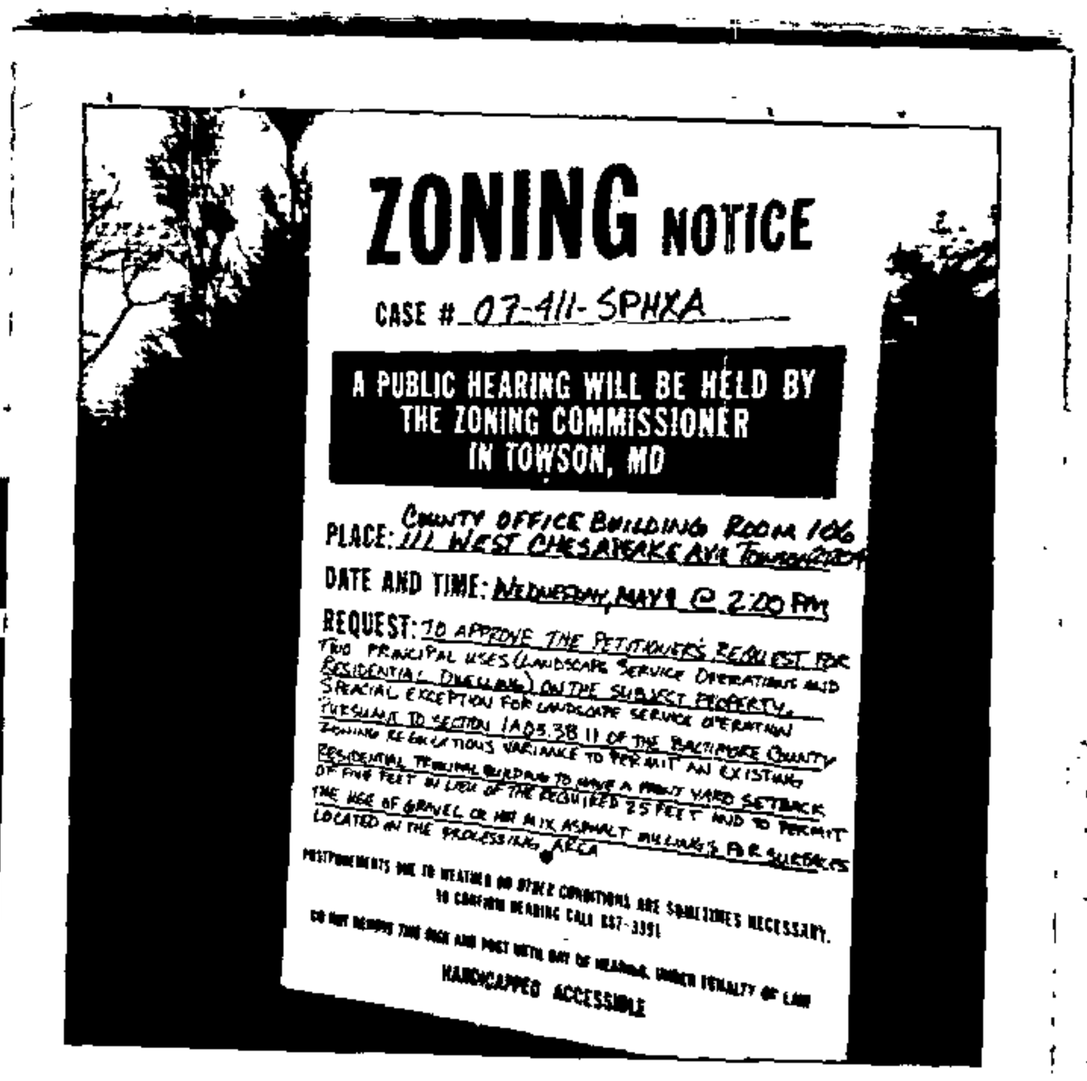
Attention:

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

5701 DEER PARK RD REISTERSTOWN MD 21136

The sign(s) were posted on APRIL 24, 2007
(Month/Day/Year)



ZONING NOTICE
CASE # 07-411-SPHXA

Sincerely,

Bleddon 4/25/07
(Signature of Sign Poster/Date)

BILL LEDDON
(Printed Name)

SHANNON-BAUM SIGNS INC.
105 COMPETITIVE GOALS DR.
ELDERSBURG, MD. 21784
(Address)

410-781-4000

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

April 11, 2007

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

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CASE NUMBER: 07-411-SPHXA
5701 Deer Park Road
N/side of Berrymans Lane, 255 feet east of centerline of Deer Park Road
4th Election District – 4th Councilmanic District
Legal Owners: Joel M. & Xandra L. Simonds
Contract Purchaser: Jay Simonds

Special Hearing to approve the Petitioner's request for two principal uses (Landscape Service Operations and Residential dwelling) on the subject property. Special Exception for a landscape service operation pursuant to Section 1A03.3B.11 of the Baltimore County Zoning Regulations. Variance to permit an existing residential principal building to have a front yard setback of five feet in lieu of the required 25 feet and to permit the use of gravel or hot mix asphalt millings for surfaces located in the processing area.

Hearing: Wednesday, May 9, 2007 at 2:00 p.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

C: Lawrence Hammond, 465 Main Street, P.O. Box 569, Reisterstown 21136
Joel & Xandra Simonds, 33416 Pennbrooke Parkway, Leesburg FL 34748
Jay Simonds, 5715 Deer Park Road, Reisterstown 21136

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, APRIL 24, 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:
Hammond & Hammond, LLC
465 Main Street, P.O. Box 569
Reisterstown, MD 21136

410-833-7576

NOTICE OF ZONING HEARING

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CASE NUMBER: 07-411-SPHXA
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N/side of Berrymans Lane, 255 feet east of centerline of Deer Park Road
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Hearing: Wednesday, May 9, 2007 at 2:00 p.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 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 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: 07-411-SPHXA

Petitioner: JAY Simonds

Address or Location: 5701 Deer Park Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: Hammond & Hammond, LLC

Address: 465 MAIN STreet, P.O. Box 569
REISTERSTOWN, MD 21136

Telephone Number: (410) 833-7576

Revised 7/11/05 - SCJ

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

May 3, 2007

Lawrence M. Hammond
Hammond & Hammond, LLC
465 Main Street
PO Box 569
Reisterstown, MD 21136

Dear Mr. Hammond:

RE: Case Number: 07-411-SPHXA, 5701 Deer Park Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on March 19, 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
Joel M. Simonds, Xandra L. Simonds 33416 Pennbrooke Parkway Leesburg, Florida 34748
Jay Simonds 5715 Deer Park Road Reisterstown 21136

Fire Department

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

Baltimore County

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

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

March 28, 2007

ATTENTION: Zoning Review Planners

Distribution Meeting Of: March 26,2007

Item Number: 410 through 426 411

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

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

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4881 (C)443-829-2946
MS-1102F

cc: File

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

State Highway Administration
Driven to Excel
Maryland Department of Transportation

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

Date: April 2, 2007

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

RE: Baltimore County
Item No. 7-411-SPHXA
5701 Deer Park Rd
Simonds Property
Special Hearing,
Special Exception
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. 7-411-SPHXA.

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

jm
59

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: April 9, 2007

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

RECEIVED
APR 1 1 2007
BY:_____

SUBJECT: 5701 Deer Park Road

INFORMATION:

Item Number: 7-411

Petitioner: Joel M. Simonds

Zoning: RC 4

Requested Action: **Variance, Special Hearing and Special Exception**

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request and accompanying site plan. It is unclear to the Office of Planning why the petitioner is requesting a five-foot front yard setback in lieu of the required twenty-five feet and to permit the use of gravel or hot mix asphalt as turf cover in the designated processing area. The petitioner should provide some sort of explanation for this request. As such the Office of Planning cannot make a recommendation with respect to the petitioner's variance request.

The office of Planning does not oppose the petitioner's special hearing and exception request to permit two principal uses (Landscape Operation and Residential) on the subject site provided the petitioner (owner) of the landscaping business is the primary occupant of the residential use.

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

Reviewed by: Curtis Murray

Division Chief: Lynn Lanham
AFK/LL: CM

W:\DEVREV\ZAC\7-411.doc

Jm 5/9

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED
MAY 08 2007
BY:

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination JWL

DATE: May 8, 2007

SUBJECT: Zoning Item # 07-411-SPHXA
Address 5701 Deer Park Road
(Simonds Property)

Zoning Advisory Committee Meeting of March 26, 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).

_X_ 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:
If application for a regulated activity is submitted, these regulations may apply.

Reviewer: J. Russo Date: April 20, 2007

S:\Devcoord\1 ZAC-Zoning Petitions\ZAC 2007\ZAC 07-411-SPHXA.doc

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: March 29, 2007

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

SUBJECT: Zoning Advisory Committee Meeting
For April 2, 2007
Item Nos. 07-230, 410, 411, 413, 414, 415, 416, 417, 418, 419, 420, 423, 424, 425, and 426

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

DAK:CEN:clw
cc: File
ZAC-NO COMMENTS-03282007.doc

RE: PETITION FOR SPECIAL HEARING SPECIAL EXCEPTION & VARIANCE 5701 Deer Park Road; N/S Berrymans Lane 255' E c/line Deer Park Road 4th Election & 4th Councilmanic Districts Legal Owner(s): Joel & Xandra Simonds Petitioner(s)	* * * * * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 07-411-SPHXA

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

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

RECEIVED
APR 04 2007
Per.....

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of April, 2007, a copy of the foregoing Entry of Appearance was mailed to Jay Simond, 5715 Deer Park Road, Reisterstown, MD 212236 and Lawrence Hammond, Esquire, Hammond & Hammond LLC, 465 Main Street, P.O. Box 569, Reisterstown, MD 21136, Attorney for Petitioner(s).

Peter Max Zimmerman

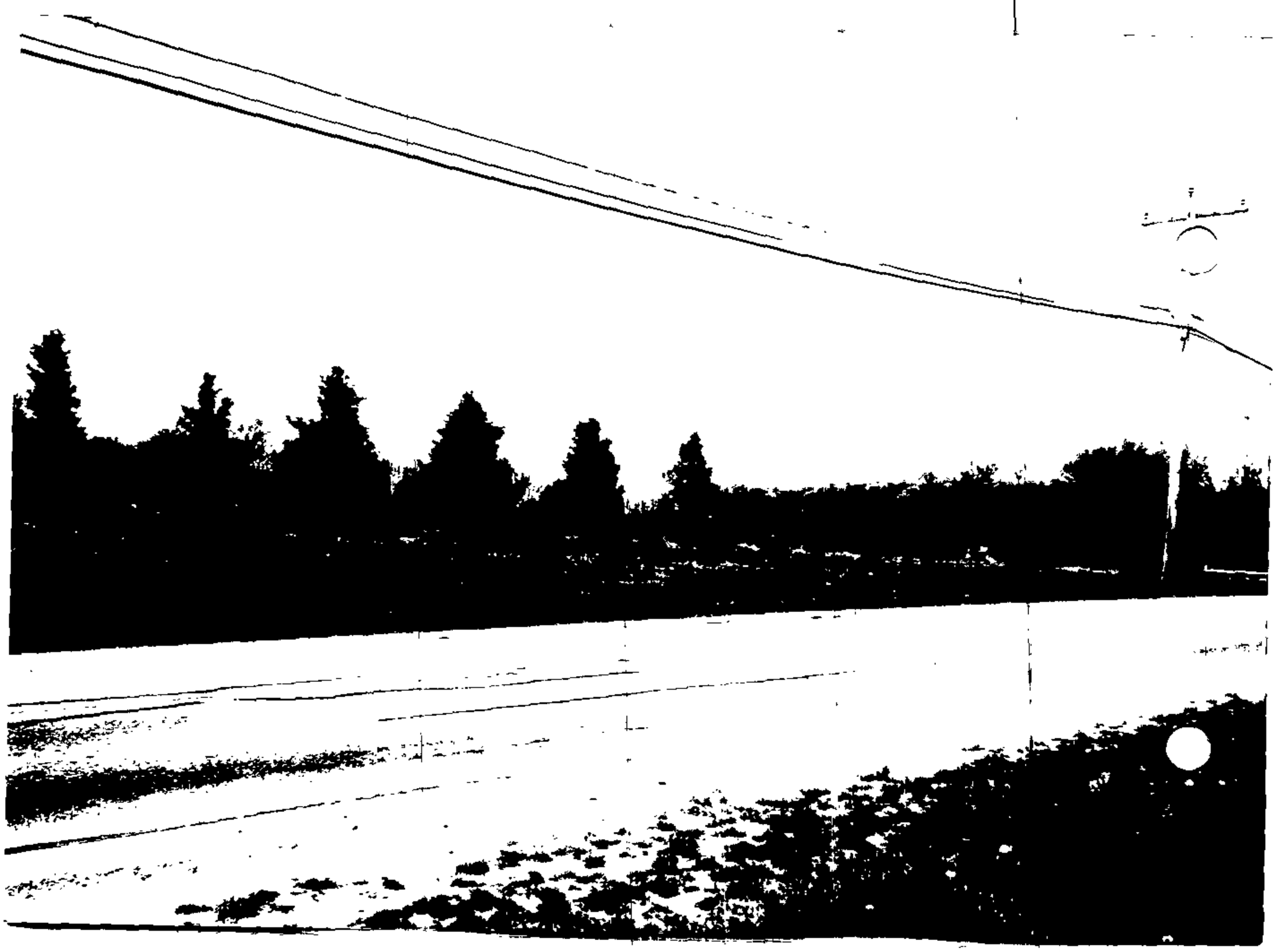
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

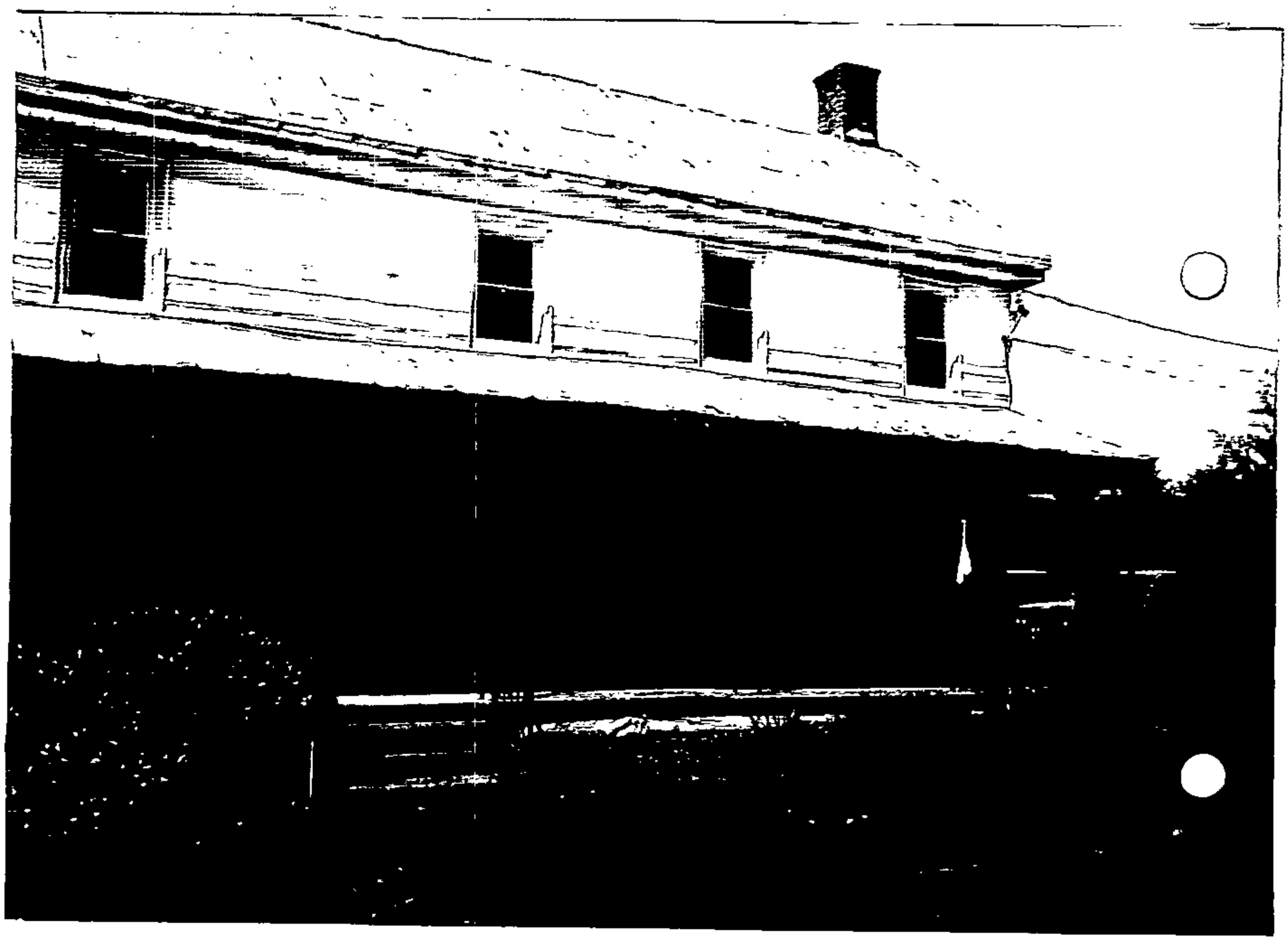
PLEASE PRINT CLEARLY

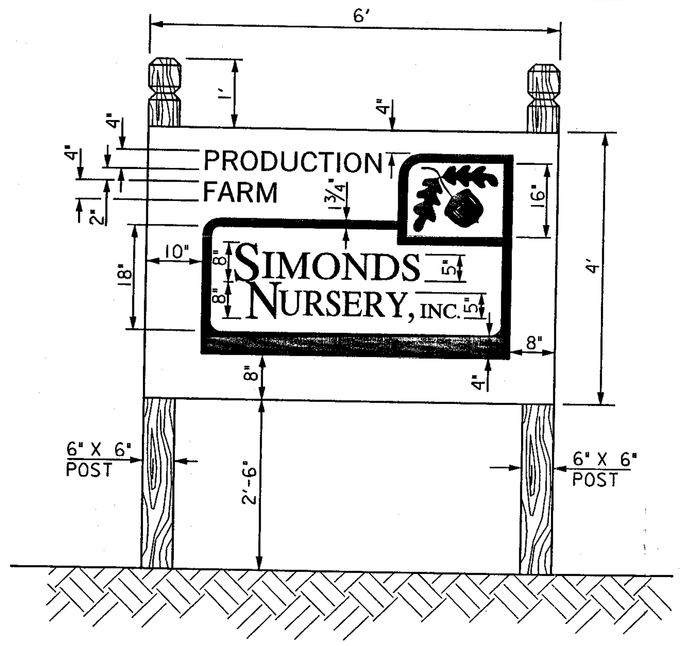
CASE NAME
CASE NUMBER 07-411-SPHXA
DATE 5-9-2007

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Jay M. Simonds	1141 Benjamins Lane	Reisterstown MD 21136	Jay@simondsnursery.com
Lawrence M. Hammond	465 MAIN ST. P.O. BOX 564	Reisterstown, MD 21136	HHLAWLLC@aol.com







SIGN DETAIL

SCALE: 1" = 1½'

GREEN - BACKGROUND
TAN/PINK - LETTERING AND ARTWORK

SPECIAL EXCEPTION AREA REQUEST

ZONING DESCRIPTION

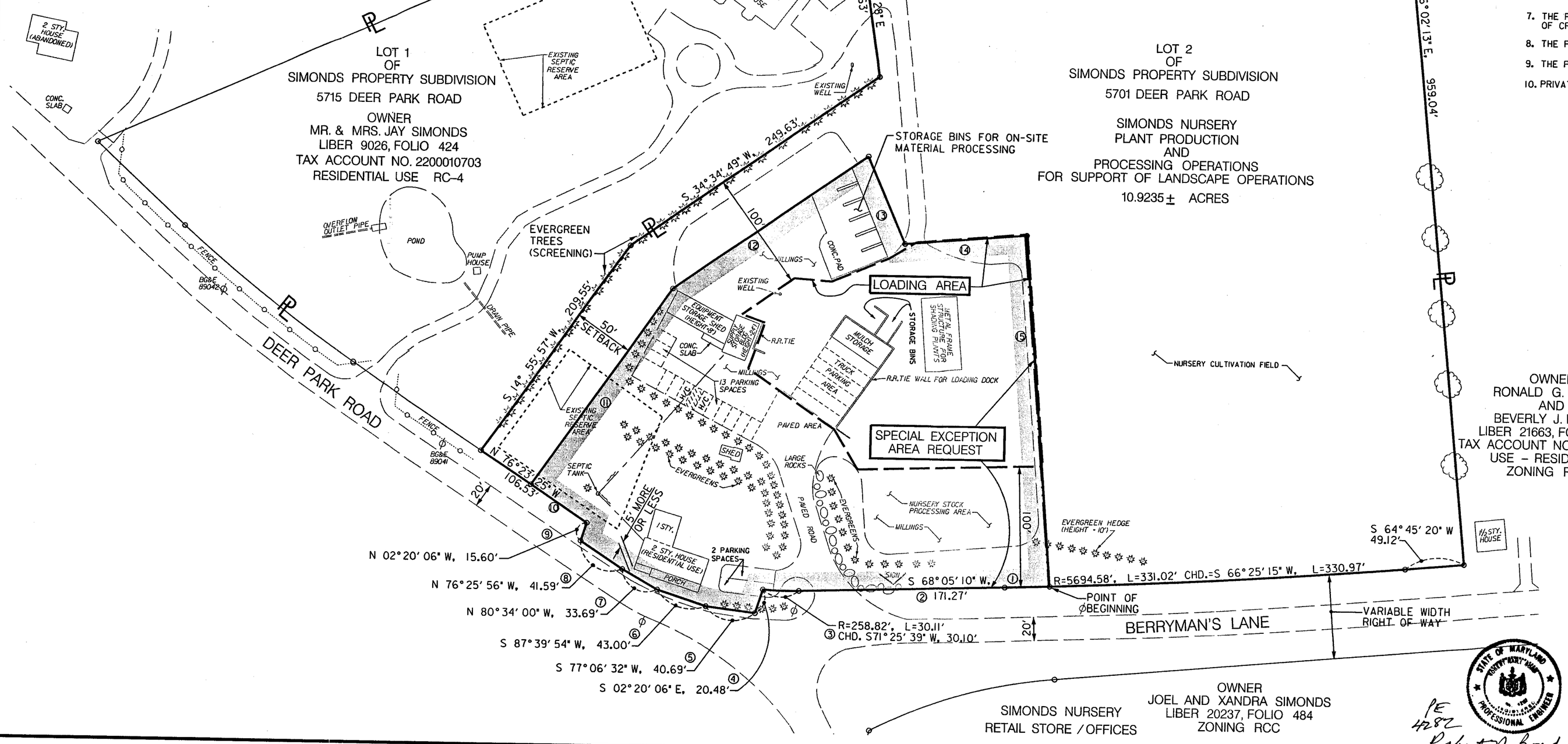
BEGINNING AT A POINT ON THE NORTH SIDE OF BERRYMAN'S LANE WHICH IS APPROXIMATELY 77 FEET WIDE AT A DISTANCE OF 255 FEET EAST OF THE CENTERLINE OF THE NEAREST INTERSECTING STREET, DEER PARK ROAD (APPROXIMATELY 60 FEET WIDE) THENCE THE FOLLOWING COURSES AND DISTANCES:

1.	BY A CURVE TO THE RIGHT WITH A RADIUS OF 5,694.58 FEET, AN ARC LENGTH OF 37.00 FEET AND A CHORD BEARING OF S 67°54' 00" W AND LENGTH OF 37.00 FEET.	
2.	S 68°05' 10" W	171.27 FEET
3.	BY A CURVE TO THE RIGHT WITH A RADIUS OF 258.82 FEET, AN ARC LENGTH OF 30.11 FEET AND A CHORD BEARING OF S 71°25' 39" W AND LENGTH OF 30.10 FEET.	
4.	S 02°20' 06" E	20.48 FEET
5.	S 77°06' 32" W	40.69 FEET
6.	S 87°39' 54" W	43.00 FEET
7.	N 80°34' 00" W	33.69 FEET
8.	N 76°25' 56" W	41.59 FEET
9.	N 02°20' 06" W	15.60 FEET
10.	N 76°23' 25" W	56.52 FEET
11.	N 14°55' 57" E	199.73 FEET
12.	N 34°34' 49" E	195.71 FEET
13.	S 43°25' 11" E	79.48 FEET
14.	N 65°05' 10" E	102.03 FEET
15.	S 24°54' 50" E	292.00 FEET

TO THE POINT OF BEGINNING.

BEING 2.475 ACRES AND PART OF LOT NO. 2 OF THE SIMONDS PROPERTY SUBDIVISION RECORDED IN BALTIMORE COUNTY PLAT BOOK SM NO. 1 FOLIO NO. 20 CONTAINING 10.9235 ACRES IN THE LOT.

ALSO KNOWN AS 5701 DEER PARK ROAD AND LOCATED IN THE FOURTH ELECTION DISTRICT.



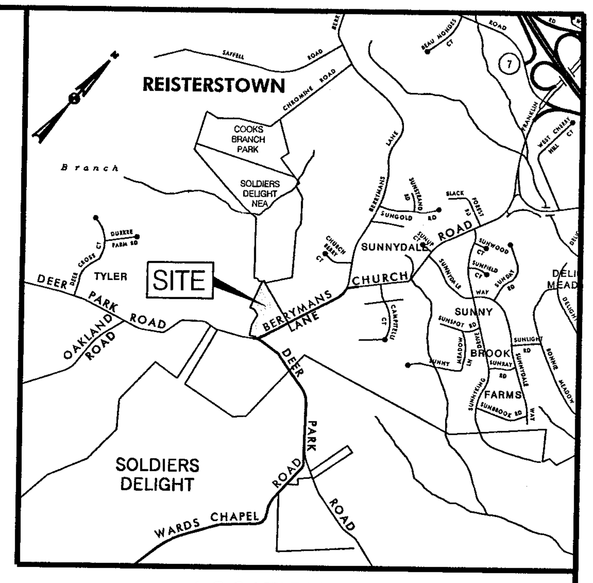
5723 DEER PARK ROAD
OWNER
STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
LIBER 13093, FOLIO 168
TAX ACCOUNT NO. NONE - EXEMPT
USE - PARK LAND
ZONING RC-7

PARKING ANALYSIS

NO. OF EMPLOYEES - 11
PARKING SPACES REQUIRED - 10
PARKING SPACES PROVIDED - 13
TYPICAL PARKING SPACE SIZE - 9' X 18'

FLOOR AREA RATIO (FAR)

GROSS FLOOR AREA OF STORAGE SHEDS AND RESIDENTIAL USE HOUSE SITE = 6,436 SF
GROSS AREA OF PROPERTY = 475,828 SF. (10.9235 AC.)
6,436 SF. ÷ 475,828 SF. = 0.135 FAR



LOCATION MAP

SCALE: 1" = 2,000'

NOTES

1. OWNER: JOEL M. AND XANDRA L. SIMONDS, TRUSTEES
   33416 PENNBROOKE PARKWAY
   LEESBURG, FLORIDA 34748-7251

   TAX ACCOUNT NO. - 0408065200
   DEED REFERENCE NO. SM 20237, FOLIO 480
   LOT 2 OF SIMONDS PROPERTY SUBDIVISION
   (PLATBOOK SM NO. 1, FOLIO 20 RECORDED DEC. 27, 1991)
2. ZONING - RC-4 REFER TO ZONE 6 MAP NO. 57
3. PREVIOUS ZONING HISTORY NONE
4. REGIONAL PLANNING DISTRICT - 306A
5. CENSUS TRACT NO. 4048
6. PERMITS

PERMIT NO. B454062	PERMIT NO. B454056	PERMIT NO. B454064
DATE - 6/19/01	DATE - 6/19/01	DATE - 6/19/01
WORK - STORAGE SHED	WORK - STORAGE SHED	WORK - SHADE HOUSE FOR PLANTS

7. THE PROPERTY IS NOT LOCATED WITHIN THE DESIGNATED AREAS OF CRITICAL CONCERN.
8. THE PROPERTY IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
9. THE PROPERTY IS NOT LOCATED WITHIN THE 100 YEAR FLOOD PLAIN.
10. PRIVATE WATER AND SEWER EXISTS ON SITE.

REQUESTS

VARIANCES

1. VARIANCE FROM SECTION (S) 1A03.4.B.2.a OF THE BCZR TO PERMIT AN EXISTING RESIDENTIAL PRINCIPAL BUILDING TO HAVE A FRONT YARD SET BACK OF FIVE (5') FEET IN LIEU OF THE REQUIRED TWENTY-FIVE (25') FEET.
2. USE OF GRAVEL OR HOT MIX ASPHALT MILLINGS FOR SURFACES IN PROCESSING AREA.

SPECIAL EXCEPTION REQUESTED

1. SPECIAL EXCEPTION UNDER THE ZONING REGULATIONS OF BALTIMORE COUNTY, TO USE THE HEREIN DESCRIBED PROPERTY FOR LANDSCAPE SERVICE OPERATIONS, PURSUANT TO SECTION 1A03.3B.11 OF THE BALTIMORE COUNTY ZONING REGULATIONS.

REQUEST FOR SPECIAL HEARING

1. SPECIAL HEARING UNDER SECTION 500.7 OF THE ZONING REGULATIONS OF BALTIMORE COUNTY IS REQUESTED TO DETERMINE WHETHER OR NOT THE ZONING COMMISIONER SHOULD APPROVE THE PETITIONER'S REQUEST FOR TWO (2) PRINCIPAL USES (LANDSCAPE SERVICE OPERATIONS AND RESIDENT DWELLING) ON THE SUBJECT PROPERTY.

SIMONDS PROPERTY

5701 DEER PARK ROAD
REISTERSTOWN, BALTIMORE COUNTY, MARYLAND

4TH ELECTION DISTRICT,
4TH COUNCILMATIC DISTRICT

PLAN SHOWING EXISTING SITE CONDITIONS, SPECIAL EXCEPTION AREA AND VARIANCE REQUESTS

Petit #1

THE WILSON T. BALLARD COMPANY
CONSULTING ENGINEERS
OWINGS MILLS, MARYLAND 21117
410-363-0150

SCALE: 1" = 50'

DATE: NOVEMBER, 2006

STATE OF MARYLAND
ROBERT N. BOND
PROFESSIONAL ENGINEER

PE 4282
Robert N. Bond

f:\survey\Simonds\surveys\PSD\SIMJDN
11/13/06 BEL
1:\2007\Contables\drfault-code.tbl

Plan Sheet: *057B2*

Note:
The zoning depicted in this application incorporates the actions associated with County Council Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04 adopted by the County Council on August 31, 2004. The action associated with County Council Bill 130-04 adopted on December 6, 2004 is also depicted. In addition, County Board of Appeals actions from MC 05-01, MC 05-02, MC 05-03, and MC 05-04 on February 9, 2005 are represented in this application.

Legend

Zoning — Streams — Vegetation
Buildings — Roads — Rail Lines

Baltimore County
Office of Planning and Zoning
Official Zoning Map

056C1	057A1	057B1	057C1	058A1
056C2	057A2	057B2	057C2	058A2
056C3	057A3	057B3	057C3	058A3

Scale

1" = 200'

0 100 200 400 Feet

1

Data Sources:
Planametric Data - Baltimore County
OIT/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2004

#411