

IN RE: PETITION FOR ADMIN. VARIANCE

E side of Hillary Way, 310 feet S of the
c/l of Charington Road
8th Election District
3rd Councilmanic District
(13 Hillary Way)

Wendy Werkheiser
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 08-247-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owner of the subject property, Wendy Werkheiser for property located at 13 Hillary Way. The variance request is from Section 424.1.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing fence (5 foot high wood panel) located on the property line in lieu of the required fence setback of 20 feet from property lines for the play area for the proposed daycare facility. The subject property and requested relief are more particularly described on Petitioner's Exhibit No. 1. The Petitioner's back yard is enclosed with a 5 foot high wood panel fence constructed approximately three years ago. The subject fence encloses a play area which is part of the Petitioner's in-home daycare facility. This play area includes a swing set (belt swings and acrobatic swings) attached to a wood fort structure with a canopy, wave sliding board, a sandbox and rope ladders. The play area also contains a large multi-color playhouse, a basketball hoop and stand, and a stand-alone sliding board. The patio area is covered with multi-color square foam blocks for cushioning. For shading the patio area is covered with a pergola and there is a canopy on the lawn for additional full-time shade. Pictures submitted by the Petitioner show a landscape area containing tall

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1-3-08
PB

vegetation and shrubs between the back lawn and the wood fence. Although the fence is for a proposed daycare facility, it is located in a residential area and is Petitioner's primary residence.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on December 9, 2007 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner. The Petitioner has an established daycare facility and requiring the fence to be relocated will unduly impact the Petitioner's in-home business and significantly reduce the size of the play area. The subject property is located in the DR 5.5 residential district and is the Petitioner's primary residence. None of the neighbors expressed any objections or concerns.

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

STAMP RECEIVED FOR FILED

1-3-08

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THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 3rd day of January, 2008 that a variance from Section 424.1.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing fence (5 foot high wood panel) located on the property line in lieu of the required fence setback of 20 feet from property lines for the play area for the proposed daycare facility is hereby GRANTED, subject to the following:

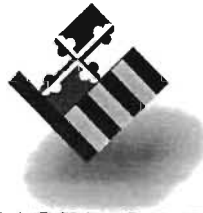
1. The Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order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

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


THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

APPROPRIATELY RECEIVED FOR FILING
1-3-08
[Signature]



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

January 3, 2008

WENDY WERKHEISER
13 HILLARY WAY
COCKEYSVILLE MD 21030

Re: Petition for Administrative Variance
Case No. 08-247-A
Property: 13 Hillary Way

Dear Ms. Werkheiser:

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

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Th H Bostwick", written over the printed name.

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

Enclosure



Petition for Administrative Variance to the Zoning Commissioner of Baltimore County

for the property located at 13 Hillary Way
which is presently zoned DRS-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 Variance from Section(s)

424.1. B, BCZR, to permit an existing fence (5ft high wood panel), located on the property line, in lieu of the required fence setback of 20ft from property lines for the play area for the proposed daycare facility.

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:

NONE
Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

NONE
Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

Legal Owner(s):

Wendy Werkheiser
Name - Type or Print

Signature

Name - Type or Print

Signature

13 Hillary Way 410-628-1836
Address Telephone No.

Cockeysville MD 21030
City State Zip Code

Representative to be Contacted:

Same
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 Baltimore County, this 11 day of November, 2007, that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 08-247-A

Reviewed By A-Tsu Date 11/28/07

REV 10/25/07

Estimated Posting Date 12/09/07 - 12/24/07

1-3-08
PM

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 13 Hillary Way
Address
Cockeysville MD 21030
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):

Strict compliance would unreasonably prevent use of property for a permitted purpose.

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.

Wam
Signature
Wendy Werkheiser
Name - Type or Print

/
Signature
/
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 16th day of October, 2007, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared x

x Wendy Werkheiser
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal



John R. Niec
Notary Public
My Commission Expires January 1, 2010
JOHN R. NIEC
Notary Public State of Maryland
My Commission Expires January 1, 2010

Affidavit in Support of Administrative Variance

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City State Zip Code

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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.

Wan
Signature

/
Signature

Wendy Werkheiser
Name - Type or Print

/
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 16th day of October, 2007, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Wendy Werkheiser
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal



John R. Niec
Notary Public
My Commission Expires January 1, 2010
JOHN R. NIEC
Notary Public State of Maryland
My Commission Expires January 1, 2010



Petition for Administrative Variance to the Zoning Commissioner of Baltimore County

for the property located at 13 Hillary Way
which is presently zoned DRS-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 Variance from Section(s)

424.1. B, BCZR, to permit an existing fence (5ft high wood panel), located on the property line, in lieu of the required fence setback of 20ft from property lines for the play area for the proposed daycare facility

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:

NONE
Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

NONE
Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

Legal Owner(s):

Wendy Werkheiser
Name - Type or Print
W
Signature

Name - Type or Print

Signature

13 Hillary Way 410-628-1836
Address Telephone No.
Cockeysville MD 21030
City State Zip Code

Representative to be Contacted:

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

Zoning Commissioner of Baltimore County

CASE NO. 08-247-A

Reviewed By A. Tsui Date 11/28/07

REV 10/25/01 **FROM RECEIVED FOR FILING**

Estimated Posting Date 12/09/07 - 12/24/07

1-3-08
pb

Zoning Description for 13 Hillary Way

Beginning at a point on the east side of Hillary Way which is 50 feet wide at the distance of 310 feet south of the centerline of the nearest improved intersecting street Charington RD which is 50 feet wide. *Being Lot #9, Block C, Section MO in the subdivision of Monterey as recorded in Baltimore County Plat Book 30, Folio #03, containing 6399 sf. Also known as 13 Hillary way and located in the 8 Election District, 3 Councilmanic District.

WDC
11/28/07

08-247-A

ADDRESS ACTUAL TIME 1000
 02/2007 11/20/2007 09:45:15 5
 AL BALDWIN JAMES 201
 101 E 500TH 11/20/2007 09:45
 5 505 500TH WEST 100TH
 1005TH
 Receipt 455.00
 455.00 00 1.00 50
 Baltimore County, Maryland

CERTIFICATE OF POSTING

RE: Case No.: 08-247-A

Petitioner/Developer: WENDY

WERKHEUSER

Date of Hearing/Closing: 12-24-07

**Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204**

ATTN: Kristen Matthews {(410) 887-3394}

Ladies and Gentlemen:

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

13 HILLARY WAY

The sign(s) were posted on

12-9-07
(Month, Day, Year)

Sincerely,

Robert Black 12-12-07
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 08- 247 -A Address 13 HILLARY WAY

Contact Person: AARON TSUI Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 11/28/2007 Posting Date: 12/09/07 Closing Date: 12/24/07

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

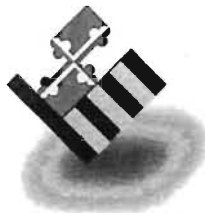
USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 08- 247 -A Address 13 HILLARY WAY
Petitioner's Name WENDY WERKHEISER Telephone 410-628-1836

Posting Date: _____ Closing Date: 12.24.07

Wording for Sign: To Permit AN EXISTING 5 FEET HIGH WOOD PANEL FENCE
LOCATED ON PROPERTY LINE IN LIEU OF THE REQUIRED FENCE
SETBACK OF 20 FEET FROM PROPERTY LINES FOR THE PLAY
AREA OF THE PROPOSED DAYCARE FACILITY

WCR - Revised 6/25/04



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

December 26, 2007

Wendy Werkheiser
13 Hillary Way
Cockeysville, MD 21030

Dear Ms. Werkheiser:

RE: Case Number: 08-247-A, 13 Hillary Way

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 28, 2007. This letter is not an approval, but only a **NOTIFICATION**.

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

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: December 12, 2007

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

SUBJECT: Zoning Advisory Committee Meeting
For December 10, 2007
Item Nos. 08-235, 236, 237, 238, 239,
241, 243, 244, 245, 246, 247 and 07-541

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-121207.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: December 4, 2007

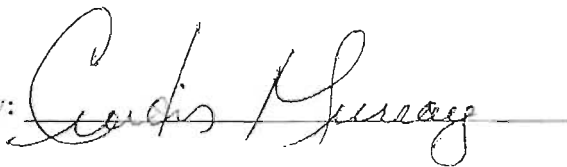
FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): Case(s) 08-247- Administrative Variance

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

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

Prepared By:

A handwritten signature in cursive script, appearing to read "Carol's Murray", written over a horizontal line.

CM/LL



Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

County Office Building, Room 111
, 2007
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

December 3, 2007

ATTENTION: Zoning Review Planners

Distribution Meeting Of: December 3, 2007

Item Number: 223,236,237,238,239,240,241,242,244,246,247

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.

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

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4880 (C) 443-829-2946
MS-1102F

cc: File

Come visit the County's Website at www.co.ba.md.us



Printed with Soybean Ink
on Recycled Paper

AV
12-24-07

RE: PETITION FOR ADMINISTRATIVE * BEFORE THE
VARIANCE *
13 Hillary Way: E/S Hillary Way, 310' S * ZONING COMMISSIONER
c/line Charington Road *
8th Election & 3rd Councilmanic Districts * FOR
Legal Owner(s): Wendy Werkheiser *
Petitioner(s) * BALTIMORE COUNTY
* 08-247-A

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of January, 2008, a copy of the foregoing Entry of Appearance was mailed to, Wendy Werkheiser, 13 Hillary Way, Cockeysville, MD 21030, Petitioner(s).

RECEIVED

JAN 03 2008

Per [Signature]

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Patricia Zook - Administrative Variance - 08-247-A @ 13 Hillary Way

From: Patricia Zook
To: Counsel, People's
Date: 1/2/2008 3:23 PM
Subject: Administrative Variance - 08-247-A @ 13 Hillary Way
CC: Bostwick, Thomas

Carole -

The file came over for the above-referenced administrative variance case that you recently inquired about. We have reviewed the matter and determined that we do not believe a public hearing is required or necessary. Although the fence is for a proposed daycare facility, it is located in a residential area and is the Petitioner's primary residence. Hence, we think an administrative variance is sufficient.

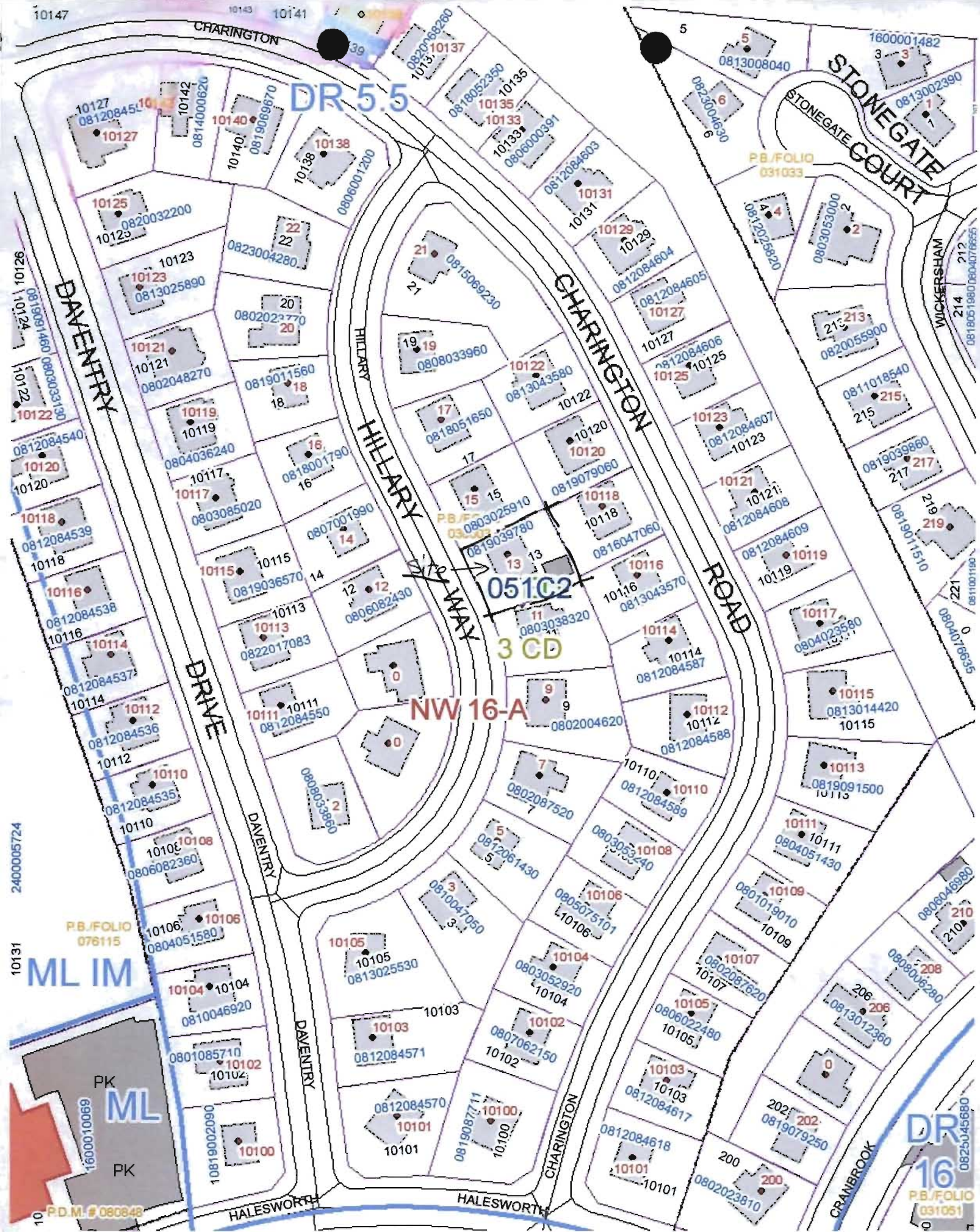
Patti Zook
Baltimore County
Office of the Zoning Commissioner
410-887-3868
pzook@baltimorecountymd.gov

From: Thomas Bostwick
To: Zook, Patricia
Date: 12/31/07 12:32:35 PM
Subject: Admin. Variance - 08-247-A

Patti,

Please advise Carole DiMilio (sp?) that the file came over for the above-referenced admin. variance she recently inquired about. You may recall that she believes the case should have been handled as a regular variance. Please let her know that we have reviewed the matter and determined that we do not believe a public hearing is required or necessary. Although the fence is for a proposed daycare facility, it is located in a residential area and is Petitioner's primary residence. Hence, we think an admin. variance is sufficient.

Thanks. Tom.

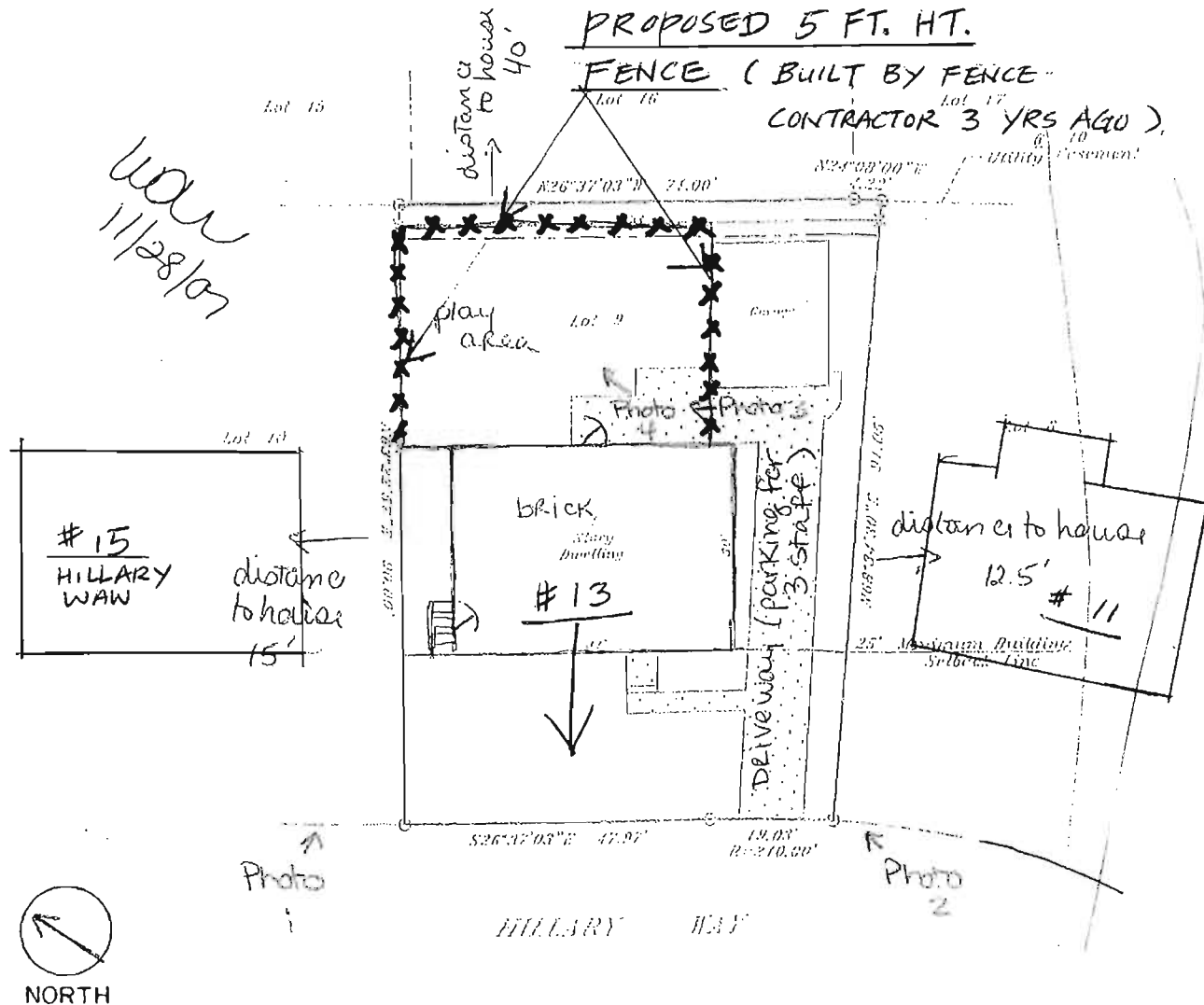
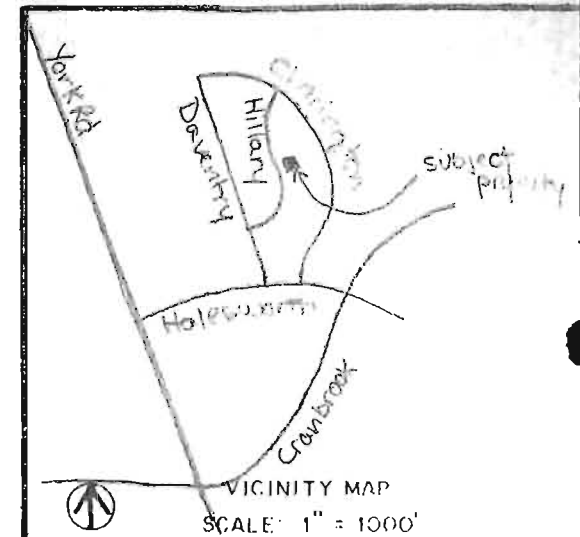


zoning map 13 Hillary Way line = 100ft. 08-247-A

-15-

SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

OWNER Wendy Werkheiser



REVIEWED BY ITEM # CASE

A. Tsui | 247 | 08-247-A

PREPARED BY Wendy Wertheiser

SCALE OF DRAWING: 1" = 30'



Photo 1



Photo 2



Photo 3



Photo 4 08-247-A