

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF		
<u>DORIS AND SALVATORE GRASSO, SR.-</u>	*	COUNTY BOARD OF APPEALS
<u>LEGAL OWNER</u>		
FOR A VARIANCE ON THE PROPERTY	*	OF
LOCATED AT 400 LEE DRIVE		
W SIDE LEE DRIVE AT NW CORNER OF	*	BALTIMORE COUNTY
ROCKWELL AVENUE		
	*	CASE NO. 08-354-A
1 ST ELECTION DISTRICT		
1 ST COUNCILMANIC DISTRICT	*	

* * * * *

OPINION

This matter comes before the Baltimore County Board of Appeals on appeal of an order of the Deputy Zoning Commissioner dated April 15, 2008 denying Petitioners' Variance request to permit an existing detached accessory structure (shed) to be located on the third of the lot closest from the street in lieu of the required third of the lot farthest removed. Petitioners, Doris and Salvatore Grasso, Sr. were represented by Francis X. Borgerding, Esquire. Protestants were represented pro se by Denise Stanco, Vice President, Colonial Gardens Improvement Association, Inc. A de novo public hearing was held by the Board on December 10, 2008 and a public deliberation was held on January 7, 2009.

Background

The property known as 400 Lee Drive is located in the 1st Election District and 1st Councilmanic District of Baltimore County and is a rectangular shaped property situated at the corner of Lee Drive and Rockwell Avenue. The residence was constructed in 1955. The property contains 0.15 acres zoned 5.5 and is improved with Petitioners' single family home. Although Petitioners address is 400 Lee Drive, the home's front entrance and one-car garage,

face Rockwell Avenue. Petitioners' unfinished accessory structure (shed) measures 10 feet by 12 feet in size and is located 4 feet from the sidewalk at Rockwell Avenue and is next to Petitioners' driveway entrance on Rockwell Avenue. The shed is partially completed with a concrete foundation and several rows of concrete blocks along the rear and side walls of the structure. This matter is currently the subject of an active violation case (Case No.: 07-8724) in the Division of Code Inspections and Enforcement due to Petitioners' improper construction of the subject shed on the third of the lot closest from the street at Rockwell Avenue. On February 6, 2008 Petitioners filed a Petition with the Zoning Commissioner of Baltimore County for a variance from section 400.1 of the Baltimore County Zoning Regulations (BCZR) to permit the existing detached accessory structure (shed) to be located on the third of the lot closest from the street in lieu of the required farthest removed. The Deputy Zoning Commissioner held a public hearing on April 8, 2008 and rendered his decision on April 15, 2008.

Evidence and Testimony

Mr. Borgerding, in his opening statement, stated that he was not involved in the hearing before the Deputy Zoning Commissioner. He called Salvatore Grasso, Sr. Mr. Grasso testified that he has lived at 400 Lee Drive off and on since 1978. He moved out in 1990 and returned in 2004. He has a wife and 3 children. He testified that his father and mother are also on the deed and they signed the Petition for the variance. Mr. Grasso presented a plat he prepared of the property as Petitioners' Exhibit No. 1. Mr. Grasso testified that 400 Lee Drive is his legal address and all of this mail is delivered to Rockwell Avenue. The plat shows the house facing Rockwell Avenue and the partially completed shed and a completed deck and pool to the left

side of the house facing Rockwell Avenue. Mr. Grasso testified that the pool and deck were constructed 4 years ago in its present location because there is only 5 feet behind the house as it faces Rockwell Avenue and is not enough room to put anything. Mr. Grasso testified he applied to the County Department of Permits for a permit to build the shed and was told that he did not need a permit to build a shed. He proceeded to build the shed. In March 2008, he received a stop work order from the Division of Code Inspection and Enforcement, as a result of 2 letters sent by Denise Stanco, Vice President of the Colonial Gardens Improvement Association, Inc. complaining of the location of the shed. Mr. Grasso testified the shed is necessary to store pool supplies, etc. and having things lying around doesn't look pretty. He testified that he would be willing to move the shed 13 feet from the property line. He drew a red line on Exhibit No 1 to indicate the new location for the shed. Mr. Grasso also submitted numerous photographs of his property and neighbors' properties as Petitioners' Exhibits. Mr. Grasso feels his property is unique because he has no backyard to put a shed and his neighbors do and it would present practical difficulty and hardship were he not allowed to build the shed. His property would look trashy.

Denise Stanco, Vice President of the Colonial Gardens Improvement Association, Inc. testified for the Protestants. Ms. Stanco presented Rule 8 papers as Protestants' Exhibit No. 1, authorizing her to testify on behalf of the Colonial Gardens Improvement Association. Ms. Stanco testified she has lived in the neighborhood since November 2002. She introduced an aerial photograph of Colonial Gardens as Protestants' Exhibit No 2. She testified that Mr. Grasso has the only shed that faces a road in the development. She testified that Exhibit No. 2 shows three similar properties to Mr. Grasso. They have back yards and two have sheds. Ms. Stanco testified that several letters from neighbors were sent to the Association's website

complaining of the location of the shed. She testified that she has no objection as to the construction of the shed just it's location.

Mr. Michael Ernest also testified for the Protestants. Mr. Ernest lives at 2014 Rockwell Avenue. He originally lived at 2016 Rockwell Avenue from 1952 to 1960. He moved into 2014 Rockwell Avenue in 1962. Mr. Ernest testified that Mr. Grasso has a garage and it is unsightly.

Mr. Alan Smith also testified for the Protestants. Mr. Smith lives at 1927 Rockwell Avenue. Mr. Smith testified that the shed in its present location would hurt property values in the neighborhood.

It is noted that People's Counsel for Baltimore County, by letter dated February 12, 2008, had requested Entry of Appearance at the hearing before the Zoning Commissioner for Baltimore County and by letter dated November 24, 2008 to Mr. Edward W. Crizer, Jr., Chairman of the Baltimore County Board of Appeals, states their concurrence with the Deputy Zoning Commissioner's Order and their reasoning for it.

Issue

The issue is: Does the Petitioners' request for a Variance to allow an existing detached accessory structure (shed) located on the third of the property closest from the street in lieu of the third of the property farthest from the street meet the conditions as set forth in the Baltimore County Zoning Regulations (BCZR)?

Section 307 of the BCZR permits granting a variance from height and area regulations "...only in cases where special circumstances or conditions exist that are peculiar to the land

and structure which is the subject of the variance request” and where strict compliance with the zoning regulations would “...result in practical difficulty or unreasonable hardship.”

Section 307 states “...any such variance should be granted only if in strict harmony with the spirit and intent...” of said regulations.

The conditions for granting a variance have been interpreted by the Maryland Court of Special Appeals in a number of cases, the controlling case being Cromwell v. Ward. According to Cromwell, Petitioners must prove that the property is unique. In Cromwell, the Court of Special Appeals referred to the definition of “uniqueness” provided in North v. St. Mary’s County:

In the zoning context, the “unique” aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. “Uniqueness” of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.... Id. at 710.

If the property is determined “unique” pursuant to the conditions set forth in Cromwell, will failure to grant the variance present a practical difficulty or unusual hardship on the property owner?

Deliberation and Decision

At the public deliberation on January 7, 2009, the Board discussed the intent of the “uniqueness” requirements in Cromwell v. Ward. A review of the aerial photo of Colonial Gardens, submitted by Protestants Exhibit No. 2 indicates that all of the corner lots are similar in that they are rectangular in shape and approximately the same size. The “uniqueness” of this

particular subject property does not lie with the lot. The Board finds that the "uniqueness" of the property falls within the configuration of the house located on the property. The original owners, because of the type of house desired, found it necessary to have the house built so that the front of the house faces Rockwell Avenue. By turning the house sideways on the property the original owners eliminated a "backyard" for this house and instead limited the space available as a "backyard" space for such structures such as a pool, deck and shed to the side of the house. The Petitioners decided 4 years ago to put the pool and deck in the "backyard" or side of the house. The Petitioners now request the variance because they used the "backyard" portion of the property and want permission to use the "front yard" next to the house to place the shed. The Board determined that while the configuration of the house satisfies the "unique" requirements of Cromwell, any practical difficulty or unreasonable hardship that would result, was self-imposed by the placement of the pool and deck in the location that would be appropriate for the placement of the shed. After thorough review of the facts, testimony, and law, the Board unanimously agreed to deny the Petitioners' request for variance.

ORDER

THEREFORE, IT IS, this 5th day of February, 2009, by the Board of Appeals of Baltimore County,

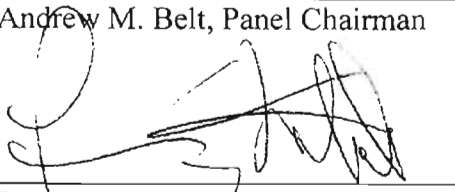
ORDERED that the Petitioners' request for Variance in Case No.: 08-354-A, seeking relief from Section 400.1 of the *Baltimore County Zoning Regulations* (BCZR) to permit an existing detached accessory structure (shed) to be located on the third of the lot closest from the street in lieu of the required farthest removed, is hereby **DENIED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

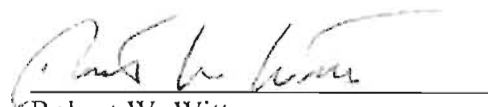
**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**



Andrew M. Belt, Panel Chairman



Lawrence M. Stahl



Robert W. Witt

IN RE: PETITION FOR VARIANCE

W side Lee Drive at NW corner of
Rockwell Avenue
1st Election District
1st Councilmanic District
(400 Lee Drive)

Doris and Salvatore Grasso, Sr.
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 08-354-A**

* * * * *

APPEAL

Doris and Salvatore Grasso, Sr., 400 Lee Drive, Catonsville, Maryland 21228, Appellants, in the above-captioned matter, by and through their attorney, Francis X. Borgerding, Jr., feeling aggrieved by the decision of the Deputy Zoning Commissioner in case number 08-354-A, hereby note an appeal to the County Board of Appeals of Baltimore County from the Findings of Fact and Conclusions of Law of the Deputy Zoning Commissioner of Baltimore County dated April 15, 2008 attached hereto and incorporated herein as Exhibit 1.

Filed concurrently with this notice of appeal is Appellants' check made payable to Baltimore County to cover the cost of the appeal. Appellants were Petitioners below and fully participated in the proceeding.

Respectfully submitted,

Rec'd
5/5/08


FRANCIS X. BORGERDING, JR.
409 Washington Avenue, Suite 600
Towson, Maryland 21204
410-296-6820
ATTORNEY FOR PETITIONERS/APPELLANTS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 5th day of May, 2008, a copy of the Notice of Appeal was mailed, first-class postage prepaid, to:

Manfred Walsmann
1929 Altavue Road
Catonsville, Maryland 21228

Alan Smith
1927 Rockwell Avenue
Catonsville, Maryland 21228

Denise Stanco
1922 Altavue Road
Catonsville, Maryland 21228

People's Counsel for Baltimore County
Jefferson Building
Second Floor - Suite 204
105 West Chesapeake Avenue
Towson, Maryland 21204



FRANCIS X. BORGERDING, JR.

IN RE: PETITION FOR VARIANCE

W side Lee Drive at NW corner of
Rockwell Avenue
1st Election District
1st Councilmanic District
(400 Lee Drive)

Doris and Salvatore Charles Grasso, Sr.
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 08-354-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owners of the subject property, Doris and Salvatore Charles Grasso, Sr. Petitioners are requesting variance relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing detached accessory structure (shed) to be located on the third of a lot closest from a street in lieu of the required farthest removed. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the variance request was Petitioner Salvatore Charles Grasso, Sr. Appearing as Protestants in opposition to the requested variance were several members of the community, including Manfred R. Wasmann of 1929 Altavue Road, Alan Smith of 1927 Rockwell Avenue, and Denise Stanco of 1922 Altavue Road.

This matter is currently the subject of an active violation case (Case No. 07-8724) in the Division of Code Inspections and Enforcement. A Correction Notice for code violation was issued in this matter due to Petitioner's improper construction of the subject shed on the third of his lot closest from the street at Rockwell Avenue.

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Bj

It should be noted, for the record, that the fact that a zoning violation is issued is generally not relevant to the underlying zoning case. This means on the one hand that Petitioner cannot bootstrap his request for zoning relief on the fact that a structure has been built, and to set a precedent in order to allow a structure to remain. Nor does the fact that a structure may be costly to remove or modify come into consideration of the zoning case. A self-imposed or self-created condition cannot be a basis for the hardship or practical difficulty required by Section 307 of the B.C.Z.R. On the other hand, the fact that a structure may have been erected which could violate the zoning regulations is not held against Petitioner as some sort of an additional punishment. Zoning enforcement is conducted by the Department of Permits and Development Management, which has the authority to impose fines and other penalties for violation of law. The role of this office is to decide each zoning case on its own merits, based on the facts and the applicable zoning law and regulations.

As to the instant matter, testimony and evidence offered revealed that the subject property is a rectangular-shaped property situated at the corner of Lee Drive and Rockwell Avenue in the Colonial Gardens subdivision located in the Catonsville area of Baltimore County. The property contains .15 acre zoned DR 5.5 and is improved with Petitioners' single-family home. Although Petitioners' address is listed as 400 Lee Drive, Petitioners' front entrance, as well as the attached one-car garage, face Rockwell Avenue. Photographs of the site which were marked and accepted into evidence as Protestants' Exhibits 1A and 1B and 2 show the appearance and configuration of the home. It appears from the photographs that the part of the home facing Lee Drive is actually the "side" of the home, with a chimney, windows, an air conditioning unit, and what appears to be a ground level side entrance. On the other side of the property, Petitioners' proposed shed measures 10 feet x 12 feet in size and is located four feet from the sidewalk at

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Rockwell Avenue, next to Petitioners' driveway entrance on Rockwell Avenue. As shown on the photographs of the shed which were marked and accepted into evidence as Petitioners' Exhibits 2A through 2D, the shed is almost completed, with a concrete foundation and several rows of concrete block along the rear and side walls of the structure. A chain link fence also surrounds the rear of the property.

Petitioner indicates he began construction of the shed without the first consulting the zoning regulations or seeking advice from the Zoning Review Office to ensure proper placement of the structure. The property is a corner lot at the intersection of Lee Drive and Rockwell Avenue and the shed's location on the property is a zoning issue since the property is a corner lot. Petitioner states that the shed must be placed at the corner of the property because there is no other suitable location in the yard. Petitioner also indicates the shed is needed for storage of pool equipment and related pool and yard accessories. The existing single-family dwelling was constructed in 1955 and Petitioner lived in the home as a child and moved back approximately three years ago. The above ground pool located in the side/rear yard area was put in about two years ago. There is also a swing set located next to the pool. According to Petitioner, construction of the shed began last July and a stop work order was issued July 30, 2007. Since that time, the shed has remain unfinished next to the swing set as shown in Petitioners Exhibits 2A through 2D. Photographs that were marked and accepted into evidence as Petitioners' Exhibits 3A through 3D depict the above ground pool with wood deck, pool equipment and hoses. Photographs that were marked and accepted into evidence as Petitioners' Exhibits 4A through 4E depict a number of sheds located in the neighborhood. It should be noted that these sheds are located at the end of driveways, in the rear yard of homes, and none of the properties are corner lots.

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Testifying in opposition to the requested variance was Ms. Stanco, who is Vice President of the Colonial Gardens Improvement Association. She introduced photographs of the subject property showing the configuration of the home, referenced previously as Protestants' Exhibits 1A and 1B and 2, as well as the shed, which was marked and accepted into evidence as Protestants' Exhibit 3. She believes the current placement of the shed is not appropriate, especially so close to the sidewalk at Rockwell Avenue, and is not in keeping with the placement of other accessory structures in the neighborhood.

Mr. Smith, Treasurer of the Colonial Gardens Improvement Association, also spoke in opposition to the requested variance. He referred to the numerous e-mails that the Association received in opposition to the request. These e-mails were marked and accepted into evidence as Protestant's Exhibit 5. The individuals listed in the emails are too numerous to specifically identify herein; however, the file contains a total of 20 e-mails from property owners in the neighborhood expressing opposition to the variance. Copies of the subject e-mails are contained in the case file. The file also contains a petition in opposition to the request which was signed by 16 neighbors and was marked and accepted into evidence as Protestant's Exhibit 6. Mr. Walsmann is a Board Member of the Colonial Gardens Improvement Association and also expressed his opposition to the variance for the shed.

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.

In determining whether the instant variance request should be granted, I must consider the merits of the instant request in accordance with the standards set forth in *Cromwell v. Ward*, 102 Md. 691 (1995) and Section 307 of the B.C.Z.R. The Court of Special Appeals of Maryland

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interpreted the regulation to require that two tests be met in order for variance relief to be granted. First, it must be shown that the property is unique in some manner and that this uniqueness drives the need for variance relief. Secondly, upon the determination that the property is unique, then it must be considered whether compliance with the regulation would cause a practical difficulty upon the property owner and be unnecessarily burdensome.

I believe that the undue hardship or practical difficulty associated with this request is largely self-imposed. The characteristics of the subject site are not unique when compared to other lots in the neighborhood. In addition, in my judgment, the scope of the variance request appears to be excessive and will overcrowd the land and will be out of character with the neighborhood. It is clear from the evidence presented such as Protestant's Exhibit 3 that the rear yard is already crowded with the above ground pool with deck and the swing set, and that the proposed shed of this size and in this location will be detrimental to adjacent properties. In my view, the adjacent properties will ultimately be negatively impacted by the constant appearance of the shed so close to the property line.

In sum, I do not believe the subject property lends itself to the proposed placement of such a substantial and permanent structure. After due consideration of all of the testimony and evidence presented, I find that Petitioners' property is substantially similar to other properties as to size, shape, topography and orientation. Hence, the request does not meet the requirements for a finding of uniqueness as set forth in *Cromwell*, and is not within the spirit and intent of the zoning regulations. Thus, I am persuaded in this case to deny the variance. I am certainly sympathetic to Petitioners' situation in having spent considerable time and expense in substantially constructing the shed; however, as indicated previously, that factor cannot be taken into consideration in deciding the merits of this case.

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Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioners, I find that Petitioners' variance request should be denied.

THEREFORE, IT IS ORDERED this 15th day of April, 2008 by this Deputy Zoning Commissioner, that Petitioners' variance request from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing detached accessory structure (shed) to be located on the third of a lot closest from a street in lieu of the required farthest removed is hereby DENIED.

IT IS FURTHER ORDERED that Petitioner shall remove the shed and its concrete foundation and block within sixty (60) days of the date of this Order, and shall comply with the zoning regulations.

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

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4-15-08
pz



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 400 Lee Drive
which is presently zoned DR 5.5

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) 400.1 - to permit an existing detached

accessory structure (shed) to be located on the third of a lot closest from a street in lieu of the required farthest removed

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

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

SALVATORE CHARLES GIRASSO SR

Name - Type or Print

Signature

DORIS GIRASSO

Name - Type or Print

Signature

400 Lee Dr 410 365 7909

Address

Telephone No.

Catonsville Md 21228

City

State

Zip Code

Representative to be Contacted:

Name

Address

Telephone No.

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING

Case No. 08-354-A

REV 9/15/98

Reviewed By [Signature]

Date 2/6/08

4.15.08

PJ

Zoning description for 400 Lee Drive.

Beginning at a point on the West Side of Lee Drive, which is 50 feet at the northwest corner of Rockwell Avenue, which is 50 feet wide. Being lot #10 block D, in the sub division of Colonial Gardens as recorded in Baltimore County Plat Book #18, folio #132, containing 6785 square feet. Also known as 1930 Rockwell Avenue and located in the 1st Election District, 1st

Councilmanic District.

Item # 354

**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: #08-354-A

400 Lee Drive

W/side of Lee Drive at
northwest corner of
Rockwell Avenue

1st Election District

1st Councilmanic District

Legal Owner(s): Salvatore
Charles Grasso & Doris
Grasso

Variance: to permit detached accessory structure (shed) to be located on the third of a lot closest from a street in lieu of the required farthest removed.

Hearing: Tuesday, April
8, 2008 at 11:00 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 accommoda-
tions Please Contact the
Zoning Commissioner's Of-
fice at (410) 887-3868.

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

JT/3/824 Mar. 25 167896

CERTIFICATE OF PUBLICATION

3/27/2008

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 3/25/2008.

☒ The Jeffersonian

☐ Arbutus Times

☐ Catonsville Times

☐ Towson Times

☐ Owings Mills Times

☐ NE Booster/Reporter

☐ North County News

J. Wilkins

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **09788**

Date: **2/6/08**

PAID RECEIPT

BUSINESS ACTUAL TIME DPM
 2/6/2008 2/06/2008 12:26:14 1

REC #001 WALKIN JRIC JHR
 >>RECEIPT # 364077 2/06/2008 BFLH

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
11	226			150				665

Dept 5 520 ZONING VERIFICATION
 CR REC 009788

Recpt Tot 665.00
 \$100.00 CA
 \$35.00- CB
 Baltimore County, Maryland

Total: **26**

Rec

From:

For:

zoning hearing case #08-354-A

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**

ZONING NOTICE

CASE # 08-354-A

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

ROOM 407, COUNTY COURTS BUILDING
401 BOSLEY AVENUE
PLACE: TOWSON, MD. 21204
DATE AND TIME: TUESDAY, APRIL 8, 2008
AT 11:00 A.M.
REQUEST: VARIANCE TO PERMIT DETACHED
ACCESSORY STRUCTURE (SHED) TO BE
LOCATED ON THE THIRD OF A LOT
CLOSEST FROM A STREET IN LIEU OF THE
REQUIRED FARTHEST REMOVED

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW
HANDICAPPED: ACCESSIBLE

ZONING NOTICE

CASE # OB-354-A

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: 2504 A27 COMPTON RD, LOT 4/5
401 DOWNSIDE RD, TOWSON, MD 21204

DATE AND TIME: TUESDAY, APRIL 2, 2008
AT 11:00 A.M.

REQUEST: VARIANCE TO PERMIT DETACHED
ACCESSORY STRUCTURE(S) (SHEED) TO BE
LOCATED ON THE THIRD OF A LOT
CLOSEST FROM A STREET IN LIEU OF THE
REQUIRED PARKING REMOVED

NOTIFICATION WILL BE GIVEN TO HOMEOWNERS AND ZONING'S OFFICIALS
TO CONSIDER HEARING TAKING PLACE

TABLE/LINE: ACCESSORY

CERTIFICATE OF POSTING

RE: Case No.: 08-354-A

Petitioner/Developer: GRASSO

Date of Hearing/Closing: APRIL 8, 2008

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

Attention: **Christen Matthews**

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 _____

400 LEE DRIVE

The sign(s) were posted on MAR. 23, 2008
(Month, Day, Year)

Sincerely,

Garland E. Moore
(Signature of Sign Poster and Date)

GARLAND E. MOORE
(Printed Name)

3225 RYERSON CIRCLE
(Address)

BALTIMORE, MD. 21227
(City, State, Zip Code)

(410) 242-4263
(Telephone Number)

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: 08-354-A

Petitioner: Salvatore & Doris Grasso

Address or Location: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Salvatore Grasso

Address: 400 Lee Dr

Catonsville Maryland

21228

Telephone Number: 410 365 7909

TO: PATUXENT PUBLISHING COMPANY
Tuesday, March 25, 2008 Issue - Jeffersonian

Please forward billing to:
Salvatore Grasso
400 Lee Drive
Catonsville, MD 21228

410-365-7909

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: 08-354-A

400 Lee Drive

W/side of Lee Drive at northwest corner of Rockwell Avenue

1st Election District – 1st Councilmanic District

Legal Owners: Salvatore Charles Grasso & Doris Grasso

Variance to permit detached accessory structure (shed) to be located on the third of a lot closest from a street in lieu of the required farthest removed.

Hearing: Tuesday, April 8, 2008 at 11:00 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.



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

December 12, 2008

NOTICE OF DELIBERATION

IN THE MATTER OF:

Doris and Salvatore Grasso, Jr. -Legal Owner /Petitioner
Case No. 08-354-A

Having concluded this matter on 12/10/08, public deliberation has been scheduled for the following date /time:

DATE AND TIME : WEDNESDAY, JANUARY 7, 2009 at 10:30 a.m.

LOCATION : Hearing Room #2, Jefferson Building
105 W. Chesapeake Avenue, Second Floor
(adjacent to Suite 203)

Theresa R. Shelton
Legal Administrative Secretary

c: Counsel for Appellants /Petitioners : Francis X. Borgerding, Jr.
Appellants /Petitioners : Doris and Salvatore Grasso, Sr.

Manfred R. Wasman
Alan Smith
Denise Stanco

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Copy to: 5-2-6

Requested: July 29, 2008

APPEAL SIGN POSTING REQUEST

CASE NO.: 08-354-A

400 Lee Drive

1st ELECTION DISTRICT

APPEALED: 5/5/2008

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

*****COMPLETE AND RETURN BELOW INFORMATION*****

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
The Jefferson Building, Suite 203
102 W. Chesapeake Avenue
Towson, MD 21204

Attention: Kathleen Bianco
Administrator

CASE NO.: 08-354-A

LEGAL OWNER: Doris and Salvatore Grasso, Sr.

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

400 LEE DRIVE
W/SIDE OF LEE DRIVE AT NW CORNER OF ROCKWELL AVE

The sign was posted on 11-25, 2008.

By: Dan J. O'Neils
(Signature of Sign Poster)

DAN O'NEIL
(Print Name)

ZONING APPEAL
PUBLIC HEARING
CLUB EDITION
Q8-359-A
FOR INFORMATION CALL
887-3180
DO NOT SIGN
OR REMOVE FROM LOT
FOR THE TRUSTEES BOARD OF APPEALS

11.25.2008 11:49



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Hearing Room #2, Second Floor
Jefferson Building, 105 W. Chesapeake Avenue

August 13, 2008

NOTICE OF ASSIGNMENT

CASE #: 08-354-A

IN THE MATTER OF: DORIS & SALVATORE GRASSO, SR.,
-LO /Petitioners 400 Lee Drive 1st E; 1st C

4/15/2008 – D.Z.C.'s decision in which requested zoning relief was
DENIED.

ASSIGNED FOR:

WEDNESDAY, DECEMBER 10, 2008, at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

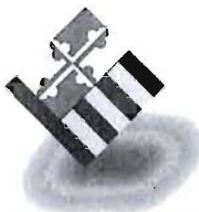
Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Petitioners
Appellants /Petitioners

: Francis X. Borgerding, Jr.
: Doris and Salvatore Grasso, Sr.

Manfred R. Wasman
Alan Smith
Denise Stanco

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM



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

April 2, 2008

Salvatore Charles Grasso, Sr.
Doris Grasso
400 Lee Drive
Catonsville, MD 21228

Dear Mr. and Mrs. Grasso:

RE: Case Number: 08-354-A, 400 Lee Drive

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on February 6, 2008. 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

INTER-OFFICE CORRESPONDENCE

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

DATE: February 11, 2008

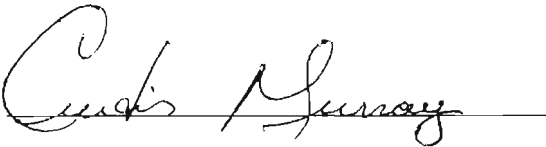
FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): **Case(s) 08-354- Variance**

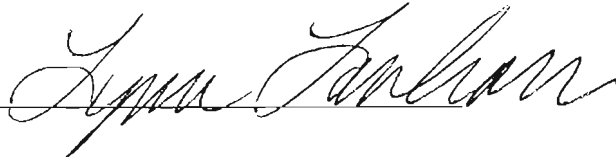
The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

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

Prepared By:



Division Chief:



CM/LL



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

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

February 11, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: February 11, 2008

Item Number: 342,343,344,345,346,347,350,351,353,354

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.

3. The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

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

cc: File



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

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

Maryland Department of Transportation

Date: FEB. 11, 2008

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

RE: Baltimore County
Item No. 8-354-A
ADOLEE DRIVE
GRASSO PROPERTY
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. 8-354-A.

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

Very truly yours,

A handwritten signature in black ink that reads "Michael P. Bailey".

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: February 14, 2008

FROM: ^{DAK}
Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For February 18, 2008
Item Nos. 08-343, 344, 345, 346, 347,
350, 351, 352, 353, and 354

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-02142008.doc

RE: PETITION FOR VARIANCE * BEFORE THE
400 Lee Drive; W/S Lee Drive, *
NW corner Rockwell Avenue * ZONING COMMISSIONER
1st Election & 1st Councilmanic Districts *
Legal Owner(s): Doris & Salvatore Grasso * FOR
Petitioner(s) * BALTIMORE COUNTY
* 08-354-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 and all 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 12th day of February, 2008, a copy of the foregoing Entry of Appearance was mailed to, Salvatore & Doris Grasso, 400 Lee Drive, Catonsville, MD 21228, Petitioner(s).

RECEIVED

FEB 12 2008

Per.....

Peter Max Zimmerman

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

November 24, 2008

Edward W. Crizer, Jr., Chairman
County Board of Appeals
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Doris & Salvatore Grasso, Petitioners/Appellants
400 Lee Drive
08-354-A

RECEIVED
NOV 24 2008
BALTIMORE COUNTY
BOARD OF APPEALS

Dear Mr. Crizer,

This case is scheduled for a *de novo* County Board of Appeals (CBA) hearing on December 10, 2008. Petitioners have appealed the Order of the Deputy Zoning Commissioner (DZC) dated April 15, 2008. DZC Thomas H. Bostwick denied the request for a variance from BCZR § 400.1 for a shed on the part of the corner lot closest to the street. The law requires accessory buildings to be on the third of a corner lot farthest removed from any street.

In light of the serious concerns raised by citizens in the Colonial Gardens Improvement Association, we have taken a close look at the record and relevant information. It leads us to the same conclusion as that reached by DZC Bostwick. The variance should be denied.

As shown by the attached SDAT real property data search printout, 400 Lee Drive is a residential lot, 6,785 feet in size, with a dwelling constructed in 1955. It is at the corner of Lee Drive and Rockwell Avenue. Petitioners acquired the property in 1978 and have enjoyed the residential use for thirty years. It appears that an above-ground pool was placed on the third of the lot farthest from the street a couple of years ago. This is consistent with BCZR § 400.1.

The controversy arose when Petitioners, in addition, began to construct a shed on the property just four feet from Rockwell Avenue, next to their driveway. It was done without legal authority. There was a correction notice issued, and this petition ensued.

The SDAT printout confirms that there is nothing unique about the property. The GIS aerial photography, zoning map, and photos in the file corroborate that this is a typical corner lot in the Colonial Gardens subdivision with unremarkable topography. There is absolutely no basis for or indication of any unique aspect of the property which results in practical difficulty. The

owners have had a reasonable use of the property for many years, recently enhanced by the addition of an above-ground swimming pool. On the other hand, the Colonial Gardens Improvement Association has presented information to show that the shed is visually and otherwise incompatible and inconsistent with the character of the neighborhood and detrimental to neighboring properties. Clearly, it is directly contrary to the spirit and intent of the law.

BCZR § 307.1 sets the standard for area variances. The Board is familiar with the leading appellate cases arising in Baltimore County. The most famous is Cromwell v. Ward 102 Md. App. 691 (1995), involving a height variance to BCZR § 400.3 for a garage/wine cellar. The detailed criteria for practical difficulty are in McLean v. Soley 270 Md. 208, 213-14 (1973). We attach the helpful recent case of Montgomery County v. Rotwein 169 Md. App. 716 (2006). The appellate court there affirmed the denial of variances despite an arguably more sympathetic personal problem presented. It is a reminder of Judge Cathell's instruction in Cromwell that variances are rarely to be granted.

It is apparent that the proposed shed is purely for the convenience of the property owner and not related to any unique difficulty involving the property. The Petitioner's actions in constructing the shed without any legal authority correspond here to the lack of legitimacy.

As a footnote, it should be observed that the sketch plan supplied by Petitioners is not done by a surveyor. The precise dimensions and distances should be verified. There is no height stated. We can get a rough idea of the size of the shed from photographs in the file.

In any event, the shed is clearly in the wrong place, and there does not appear to be a scintilla of evidence to justify a variance. DZC Bostwick's denial of the variance is consistent with all the information which has come to our attention. The Board should reach the same result.

Respectfully,



Peter Max Zimmerman
People's Counsel for Baltimore County

cc: Frank Borgerding, Jr. Attorney for Appellant
Denise Stanco, Colonial Gardens Improvement Association



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw3.1)

[Go Back](#)
[View Map](#)
[New Search](#)

Account Identifier: District - 01 Account Number - 0103672060

Owner Information

Owner Name:	GRASSO SALVATORE C GRASSO DORIS M	Use:	RESIDENTIAL
Mailing Address:	400 LEE DR BALTIMORE MD 21228-4237	Principal Residence:	YES
		Deed Reference:	1) / 5939/ 674 2)

Location & Structure Information

Premises Address	Legal Description
400 LEE DR	COLONIAL GARDENS

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:	3
100	5	84				D	10	1	Plat Ref:	18/ 132

Special Tax Areas	Town Ad Valorem Tax Class
--------------------------	--

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1955	1,292 SF	6,785.00 SF	04
Stories	Basement	Type	Exterior
1	YES	STANDARD UNIT	BRICK

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2007	07/01/2007	07/01/2008
Land	72,780	126,780		
Improvements:	100,300	174,030		
Total:	173,080	300,810	215,656	258,232
Preferential Land:	0	0	0	0

Transfer Information

Seller: CRAWFORD HILDA C	Date: 09/26/1978	Price: \$50,000
Type: IMPROVED ARMS-LENGTH	Deed1: / 5939/ 674	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

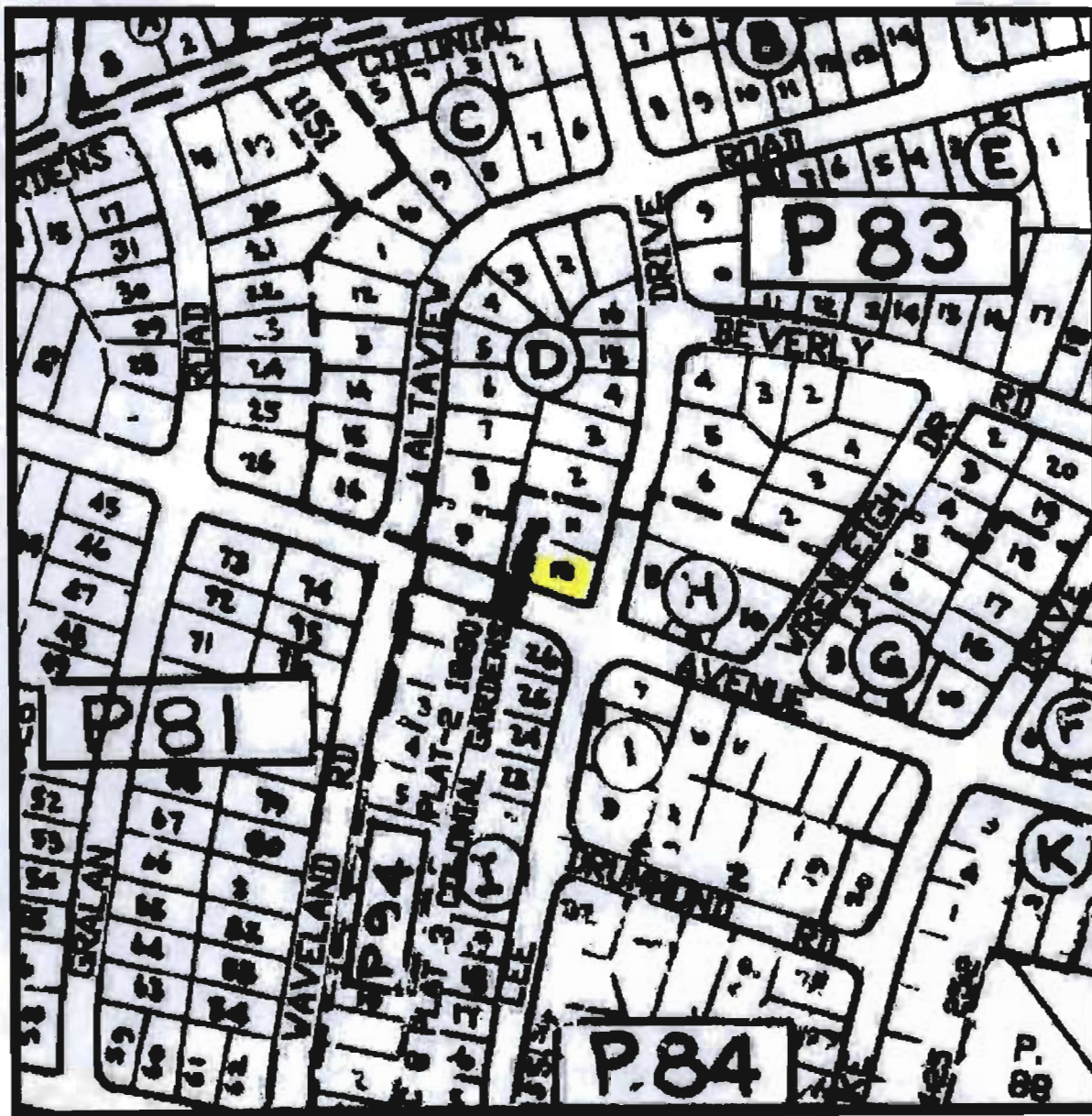
Partial Exempt Assessments	Class	07/01/2007	07/01/2008
County	000	0	0
State	000	0	0
Municipal	000	0	0
Tax Exempt: NO	Special Tax Recapture:		
Exempt Class:	* NONE *		



Maryland Department of Assessments and
Taxation
BALTIMORE COUNTY
Real Property Data Search

[Go Back](#)
[View Map](#)
[New](#)
[Search](#)

District - 01 Account Number - 0103672060



Property maps provided courtesy of the Maryland Department of Planning ©2004.
For more information on electronic mapping applications, visit the Maryland Department of
Planning web site at www.mdp.state.md.us/tax_mos.htm

Westlaw Delivery Summary Report for COUNSEL,PEOPLE'S

Date/Time of Request: Friday, November 21, 2008 13:17 Central
 Client Identifier: PEOPLESOCUNSEL
 Database: MD-CS
 Citation Text: 906 A.2d 959
 Lines: 649
 Documents: 1
 Images: 0

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Westlaw.

906 A.2d 959
 169 Md.App. 716, 906 A.2d 959
 (Cite as: 169 Md.App. 716, 906 A.2d 959)

Page 1

H

Court of Special Appeals of Maryland.
 MONTGOMERY COUNTY, Maryland
 v.
 Frances ROTWEIN.
 No. 2414, Sept. Term, 2004.

Sept. 6, 2006.

Background: Property owner, who sought to build garage and walkway, filed petition for judicial review, challenging decision of county board of appeals that denied application for variances from front and side yard setbacks. County intervened as respondent. Following a hearing, the Circuit Court, Montgomery County, Woodward, J., reversed board's decision and remanded within instructions to reopen record to receive additional evidence. County appealed.

Holdings: The Court of Special Appeals, Krauser, J., held that:

- (1) property owner failed to demonstrate that strict application of zoning regulations would result in unusual practical difficulties, and
- (2) substantial evidence existed to support board's conclusion that requested area variance was not minimum reasonably necessary.

Reversed and remanded with instructions.

West Headnotes

[1] Zoning and Planning 414 ◀▶747

414 Zoning and Planning
 414X Judicial Review or Relief
 414X(E) Further Review
 414k745 Scope and Extent of Review
 414k747 k. Questions of Fact; Findings. Most Cited Cases
 Court of Special Appeals would apply substantial-evidence test when reviewing decision of county board of appeals that denied property owner's ap-

plication for variances from front and side yard setbacks concerning owner's proposed garage.

[2] Zoning and Planning 414 ◀▶745.1

414 Zoning and Planning
 414X Judicial Review or Relief
 414X(E) Further Review
 414k745 Scope and Extent of Review
 414k745.1 k. In General. Most Cited Cases

Zoning and Planning 414 ◀▶747

414 Zoning and Planning
 414X Judicial Review or Relief
 414X(E) Further Review
 414k745 Scope and Extent of Review
 414k747 k. Questions of Fact; Findings. Most Cited Cases
 In reviewing denial of application for variances from front and side yard setbacks concerning property owner's proposed garage, Court of Special Appeals could not substitute its judgment for that of county board of appeals unless board's conclusions were not supported by substantial evidence or were premised on error of law.

[3] Administrative Law and Procedure 15A ◀▶791

15A Administrative Law and Procedure
 15AV Judicial Review of Administrative Decisions
 15AV(E) Particular Questions, Review of
 15Ak784 Fact Questions
 15Ak791 k. Substantial Evidence. Most Cited Cases
 Substantial evidence test requires reviewing court to affirm an agency decision, if, after reviewing the evidence in a light most favorable to the agency, the reviewing court finds a reasoning mind reasonably could have reached the factual conclusion the agency reached.

906 A.2d 959
169 Md.App. 716, 906 A.2d 959
(Cite as: 169 Md.App. 716, 906 A.2d 959)

[4] Administrative Law and Procedure 15A ◀ 796

15A Administrative Law and Procedure
15AV Judicial Review of Administrative Decisions

15AV(E) Particular Questions, Review of
15Ak796 k. Law Questions in General.
Most Cited Cases

In determining whether the agency's conclusions were premised on an error of law, a reviewing court ordinarily gives considerable weight to the agency's interpretation and application of the statute which the agency administers.

[5] Zoning and Planning 414 ◀ 496

414 Zoning and Planning
414IX Variances or Exceptions
414IX(A) In General
414k492 Hardship, Loss, or Injury
414k496 k. Unique or Peculiar Hardship. Most Cited Cases

To determine whether property owner has made required showing for variance, zoning board must engage in following two-step analysis: first step requires finding that property whereon structures are to be placed or uses are to be conducted is-in and of itself-unique and unusual in manner different from nature of surrounding properties such that uniqueness and peculiarity of subject property causes zoning provision to impact disproportionately upon that property, and if that first step results in supportable finding of uniqueness or unusualness, then second step is determination of whether practical difficulty or unreasonable hardship or both, resulting from disproportionate impact of ordinance caused by property's uniqueness, exists.

[6] Zoning and Planning 414 ◀ 504

414 Zoning and Planning
414IX Variances or Exceptions
414IX(A) In General
414k502 Particular Structures or Uses
414k504 k. Building or Set-Back

Page 2

Lines. Most Cited Cases

Property owner failed to demonstrate that strict application of zoning regulations would result in unusual practical difficulties to owner, and thus owner, who sought to build two-car garage and walkway, was not entitled to area variance from front and side yard setbacks, although property owner, who was elderly, wanted to exit her car and enter house without being exposed to the elements, and although other sizes and locations for garage would be substantially more expensive; there was ample room elsewhere within setbacks to build garage, proposed location was matter of convenience, and alleged hardships were self-created.

[7] Zoning and Planning 414 ◀ 503

414 Zoning and Planning
414IX Variances or Exceptions
414IX(A) In General
414k502 Particular Structures or Uses
414k503 k. Architectural or Structural Designs in General. Most Cited Cases

Zoning and Planning 414 ◀ 504

414 Zoning and Planning
414IX Variances or Exceptions
414IX(A) In General
414k502 Particular Structures or Uses
414k504 k. Building or Set-Back
Lines. Most Cited Cases
"Area variances" are variances from area, height, density, setback, or sideline restrictions, such as a variance from the distance required between buildings.

[8] Zoning and Planning 414 ◀ 481

414 Zoning and Planning
414IX Variances or Exceptions
414IX(A) In General
414k481 k. Nature and Necessity in General. Most Cited Cases
"Use variances" permit a use other than that permitted in the particular district by the ordinance, such

906 A.2d 959
169 Md.App. 716, 906 A.2d 959
(Cite as: 169 Md.App. 716, 906 A.2d 959)

as a variance for an office or commercial use in a zone restricted to residential uses.

[9] Zoning and Planning 414 ◀ 493

414 Zoning and Planning
414IX Variances or Exceptions
414IX(A) In General
414k492 Hardship, Loss, or Injury
414k493 k. In General. Most Cited

Zoning and Planning 414 ◀ 503

414 Zoning and Planning
414IX Variances or Exceptions
414IX(A) In General
414k502 Particular Structures or Uses
414k503 k. Architectural or Structural Designs in General. Most Cited Cases
Because the changes to the character of the neighborhood are considered less drastic with area variances than with use variances, the less stringent "practical difficulties" standard applies to area variances, while the "undue hardship" standard applies to use variances.

[10] Zoning and Planning 414 ◀ 503

414 Zoning and Planning
414IX Variances or Exceptions
414IX(A) In General
414k502 Particular Structures or Uses
414k503 k. Architectural or Structural Designs in General. Most Cited Cases
In determining whether practical difficulties exist, as would support granting area variance, zoning board must consider three factors: whether compliance with strict letter of restrictions governing area, setbacks, frontage, height, bulk, or density would unreasonably prevent owner from using property for permitted purpose or would render conformity with such restrictions unnecessarily burdensome, (2) whether grant of variance applied for would do substantial justice to applicant as well as to other property owners in district, or whether lesser relax-

Page 3

ation than that applied for would give substantial relief to owner of property involved and be more consistent with justice to other property owners, and (3) whether relief can be granted in such fashion that spirit of ordinance will be observed and public safety and welfare secured.

[11] Zoning and Planning 414 ◀ 503

414 Zoning and Planning
414IX Variances or Exceptions
414IX(A) In General
414k502 Particular Structures or Uses
414k503 k. Architectural or Structural Designs in General. Most Cited Cases
To prove that practical difficulties exist, applicant seeking area variance must show more than simply that the building would be suitable or desirable or could do no harm or would be convenient for or profitable to its owner.

[12] Zoning and Planning 414 ◀ 503

414 Zoning and Planning
414IX Variances or Exceptions
414IX(A) In General
414k502 Particular Structures or Uses
414k503 k. Architectural or Structural Designs in General. Most Cited Cases
Applicant seeking area variance must demonstrate that the application of the ordinance to the unique characteristics of the land would cause "peculiar or unusual practical difficulties" that justify the variance requested.

[13] Zoning and Planning 414 ◀ 503

414 Zoning and Planning
414IX Variances or Exceptions
414IX(A) In General
414k502 Particular Structures or Uses
414k503 k. Architectural or Structural Designs in General. Most Cited Cases
For purposes of requirement that applicant for area variance prove peculiar or unusual practical difficulties, "peculiar or unusual practical difficulties"

906 A.2d 959
169 Md.App. 716, 906 A.2d 959
(Cite as: 169 Md.App. 716, 906 A.2d 959)

must not be the result of the applicant's own ac- tions.

[14] Zoning and Planning 414 ⇌ 503

414 Zoning and Planning
414IX Variances or Exceptions
414IX(A) In General
414k502 Particular Structures or Uses
414k503 k. Architectural or Structural
Designs in General. Most Cited Cases
Economic loss alone does not necessarily satisfy the "practical difficulties" test for obtaining area variance, because every person requesting a vari-
ance can indicate some economic loss.

[15] Zoning and Planning 414 ⇌ 503

414 Zoning and Planning
414IX Variances or Exceptions
414IX(A) In General
414k502 Particular Structures or Uses
414k503 k. Architectural or Structural
Designs in General. Most Cited Cases
Under practical-difficulties test for obtaining area variance, the pertinent inquiry with respect to eco-
nomic loss is whether it is impossible to secure a reasonable return from or to make a reasonable use
of the property.

[16] Zoning and Planning 414 ⇌ 538

414 Zoning and Planning
414IX Variances or Exceptions
414IX(B) Proceedings and Determination
414k537 Weight and Sufficiency of Evid-
ence
414k538 k. Architectural or Structural
Designs. Most Cited Cases
For purposes of zoning ordinance requiring that ap-
plicant seeking area variance must prove that re-
quested variance was minimum reasonably neces-
sary to overcome exceptional circumstances, sub-
stantial evidence existed to support conclusion of
county board of appeals that area variance that
property owner requested from front and side yard

Page 4

setbacks so that two-car garage could be construc-
ted was not minimum reasonably necessary; evi-
dence indicated that there were alternative locations
and configurations that would not have required
variance.

**961 Karen L. Federman Henry (Marc P. Hansen,
Charles W. Thompson, County Atty. on brief),
Rockville, for appellant.
Stephen J. Orens (Rebecca D. Williams, Casey L.
Moore, on brief), Bethesda, for appellee.

Panel HOLLANDER, KRAUSER, MOYLAN
(retired, specially assigned), JJ.

KRAUSER, J.

*720 Seeking to build an enclosed, two-car garage
and a walkway on her residential property, appellee
Frances Rotwein applied for variances from front
and side yard setbacks mandated by the Mont-
gomery County Zoning Ordinance. When the Board
of Appeals for Montgomery County ("the Board of
Appeals" or "the Board") denied that application,
Rotwein filed a petition for judicial review in the
Circuit Court for Montgomery County. The circuit
court reversed the Board's decision and remanded
the case to the Board with instructions that it re-
open the record to receive additional evidence re-
garding alternative locations for the garage and that
it reconsider whether the property is unique in light
of *North v. St. Mary's County*, 99 Md.App. 502,
638 A.2d 1175 (1994).

Appealing that decision, Montgomery County
presents one question for our review:

Did the [B]oard of [A]ppeals properly construe the
zoning ordinance to require it in reviewing an ap-
plication for a variance to make findings based on
the unique characteristics of the property without
considering the location of existing structures on
the site?

For the reasons that follow, we reverse the decision
of the circuit court and remand the case to that
court for it to affirm the decision of the Board of

Page 5

906 A.2d 959
169 Md.App. 716, 906 A.2d 959
(Cite as: 169 Md.App. 716, 906 A.2d 959)

Appeals.

*721 APPLICABLE ZONING LAW

The Montgomery County Zoning Ordinance author-
izes the Board of Appeals to hear and decide peti-
tions for variances. See Montgomery County Zon-
ing Ordinance § 59-A-4.11. But it authorizes only
area variances, as it expressly prohibits the Board
of Appeals from granting a variance "to authorize a
use of land not otherwise permitted." § 59-G-3.1(d).

To obtain an area variance, an applicant must prove
by a preponderance of the evidence that

(a) By reason of exceptional narrowness, shallow-
ness, shape, topographical conditions, or other ex-
traordinary situations or conditions peculiar to a
specific parcel of property, the strict application of
these regulations would result in peculiar or unusu-
al practical difficulties to, or exceptional**962 or
undue hardship upon, the owner of such property;

(b) Such variance is the minimum reasonably ne-
cessary to overcome the aforesaid exceptional con-
ditions;

(c) Such variance can be granted without substan-
tial impairment to the intent, purpose and integrity
of the general plan or any duly adopted and ap-
proved area master plan affecting the subject prop-
erty; and

(d) Such variance will not be detrimental to the use
and enjoyment of adjoining or neighboring proper-
ties.

§ 59-G-3.1.

THE PROPERTY

Rotwein purchased the property at 6605 Tulip Hill
Terrace with her now-deceased husband, Joseph
Rotwein, in 1955. The lot, which is improved with
a one-story single-family house, has a total area of

31,091 square feet. The property is 83 feet wide at
the front where it abuts the street, 87 feet wide at
the rear, 415 feet along one side, and 325 along the
other. The house sits eight feet from the right-hand
side lot line and twenty-three feet from the front lot
line.

*722 Because the property sits at a bend in the
road, its front yard is deeper on the eastern side of
the property than on the western side. The lot
slopes downward from east to west, and also from
front to back. The next narrowest lot in the neigh-
borhood is 98 feet wide, and other lots in the neigh-
borhood average 108 feet in width.

Rotwein has lived on the property since her house
was built. The house is a one-story frame building,
and the lower level of the house is a finished base-
ment. In the front of the house is an exposed car-
port with a driveway that accesses the road at two
locations. In the rear are a deck, a slate patio, a
pool, and a tennis court. The pool and the tennis
court were added to the rear of the house in the
1970s. And, in 1983, the Rotweins obtained a vari-
ance from existing setback requirements to build a
second, enclosed patio on the eastern side of their
home.

Mrs. Rotwein now wishes to build an enclosed,
two-car garage on the eastern corner of the front of
her property, where the carport presently is. The
garage, as proposed, would be constructed three
feet from the eastern edge of the property, and
eighteen feet from the street. But the property, as
currently zoned,^{FN1} requires a twenty-five-foot
setback from the street and an eight-foot setback on
each side, with the sum of the setbacks of both
sides totaling at least eighteen feet. Montgomery
County Code §§ 59-C-1.323(a), (b)(1). Accord-
ingly, Rotwein requests a variance of seven feet
from the front setback and a variance of three feet
from the sum of the side setbacks, because it would
reduce the sum of the side yards to fifteen feet.

FN1. Although Rotwein's property is cur-
rently zoned R-90, it was subdivided in

906 A.2d 959
169 Md.App. 716, 906 A.2d 959
(Cite as: 169 Md.App. 716, 906 A.2d 959)

Page 6

1957, while zoned R-60. The property was developed as an R-60 property and is therefore still held to the setback requirements of the R-60 zone.

THE BOARD OF APPEALS HEARINGS

The Board of Appeals held a hearing on Rotwein's variance application on January 21, 2004. Rotwein's architect, Dean *723 Brenneman, testified that Rotwein, who was 84 years old, wanted to build the garage because she felt unsafe entering her house and wished to have the ability to enter and exit her house within an enclosed garage. He explained that Rotwein's lot is much longer and narrower than the other lots in the neighborhood, and that the other neighborhood properties generally have two-car garages. Brenneman opined that, as a result of the narrow shape of the **963 property and the "deep" curvature at its front, the only location the garage can be placed is at the front, eastern corner of the property. If placed there, it would be set apart from the main house, but connected to it by an arca-way.

The Board questioned Brenneman as to whether several alternative locations and configurations for the garage, which would not require a variance, would be feasible. Brenneman rejected all of the alternatives suggested by the Board. He stated that one alternative proposed by the Board—enclosing the existing carport—was unacceptable because the front door of the house is accessed from inside the carport, such that "if you enclose that as a garage you no longer have a front door of the house." He also rejected the Board's proposals that a one-car garage be built instead of a two-car garage, or that the garage be placed closer to the main house, so that it would be as large as originally proposed, but within the building envelope. He found the former unacceptable because it would reduce the value of Rotwein's property, given "the neighborhood character of having two-car garages for houses of this size in this area," and the latter unfeasible because it would require that the property be re-graded. The

re-grading, he informed the Board, would bury the windows to the lower level of the house, necessitating "window wells" to allow light and air to enter that level. If reconfigured that way, the garage, he stated, would block the front door of the house. Brenneman also rejected the Board's suggestion that the garage be built behind the house, which could be entered from a road that runs along the rear edge of Rotwein's property, stating, "that's not really a feasible approach" because there is *724 "a steep drop-off and then we have mature vegetation" at the rear of the property.

After Brenneman's testimony, the hearing was continued to March 24, 2004, to allow Rotwein to submit additional materials required by § 59-A-4.22(a)(1) of the zoning ordinance.^{FN2} When the Board reconvened on that date, Brenneman further noted that the lot was too narrow to build the garage on the side of the house. He also stated:

FN2. Section 59-A-4.22(a)(1) of the Montgomery County Zoning Ordinance requires that each application for a variance must attach a statement that includes "[s]urvey plats or other accurate drawings showing boundaries, dimensions, area, topography and frontage of the property involved, as well as the location and dimensions of all structures existing and proposed to be erected, and the distances of such structures from the nearest property lines." Because Rotwein had not included, with her application, a site plan showing "the location and dimensions of all structures existing and proposed to be erected," the hearing was continued to allow her to submit that document.

Regarding topography, this property has a change of grade across from front to back, as well as from right to left. If we were to try and put a garage anywhere on the rear of the property or on the lower left side of the property, we would not achieve the goal of putting a garage at the main living level.

906 A.2d 959
169 Md.App. 716, 906 A.2d 959
(Cite as: 169 Md.App. 716, 906 A.2d 959)

Page 7

which is necessary for access....

Rotwein's son, who represented her in this matter, then asked Brenneman, "Are you familiar with any other extraordinary conditions that might exist in this situation? And let me lead you, as such as security or accessibility that might be issues in this particular garage being built in this fashion?" When Brenneman began to talk about the elderly Rotwein's mobility problems, Board Chairman Donald Spence interrupted, prompting the following exchange:

MR. SPENCE: I mean, now we're talking about the personal circumstances, and not dealing with the property. **964 And as you know, counsel, that's not relevant to this proceeding.

MR. ROTWEIN: No, I believe under your code it asks for any other extraordinary situations that might exist, such as an elderly woman.

*725 MR. SPENCE: Relating to the property, counsel. That's it.

Board Chairman Spence asked Rotwein how the property was unique or peculiar, and Rotwein responded, "it's the narrowest lot in the whole neighborhood ... which makes ... putting this garage a requirement of going into the side yard and front yard setbacks, because of the configuration of the lot."

A discussion by the Board of Rotwein's application ensued. During that discussion, the Board noted that the "uniqueness" inquiry requires comparing the subject property with adjoining properties. As to whether the property was unique, Board Chairman Spence noted that the evidence indicated that the property is "a substantial percentage more narrow" than neighboring lots. The Board also questioned whether Rotwein's "hardship" was "self-imposed," in that it was Rotwein's choice to erect a carport, a tennis court, and a pool, thereby limiting potential locations for a two-car garage.

Later, the Board issued an opinion denying Rotwein's application. Specifically, it found that Rot-

wein's application did not meet the requirements of § 59-G-3.1(a) or (b). With respect to subsection (a), it opined:

The petitioner contends that the requested variances are warranted because of the exceptional narrowness of the property. While the property does appear to be narrower than other lots in the neighborhood, the petitioner has failed to show how this condition results in a practical difficulty in complying with the front and side setback requirements.

...
In this case, the petitioner's site plan ... indicates that there is sufficient room within the building envelope of the property to locate a reasonably sized garage in the front of the house (e.g., where the carport is presently located.) The petitioner would have difficulty meeting the front and side setbacks only because she proposed to detach the garage and separate it from the house. This is a matter of *726 convenience, and does not rise to the level of a practical difficulty.

With respect to subsection (b), the Board found that, "because there is sufficient room within the building envelope of the property to locate a reasonably sized garage, either in front or to the rear of the house, the requested variances for the construction of a one-story addition are not the minimum reasonably necessary." Since failure to meet any criterion enumerated in the ordinance results in denial of the variance, the Board must, it observed, deny Rotwein's petition.

On May 20, 2004, Rotwein filed a petition for judicial review in the Circuit Court for Montgomery County. On July 19, 2004, Montgomery County moved to intervene as respondent on the grounds that it had a direct interest in the case: "the proper administration and interpretation of its laws." On August 11, 2004, the circuit court granted Montgomery County's motion to intervene.

Following a hearing on November 3, 2004, the cir-

906 A.2d 959
169 Md.App. 716, 906 A.2d 959
(Cite as: 169 Md.App. 716, 906 A.2d 959)

Page 8

cuit court issued an order on November 16, 2004, reversing the decision of the Board. Then, remanding the case to the Board of Appeals, it ordered the Board of Appeals to apply the following language from *North v. St. Mary's County*:

"Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not **965 shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls.

99 Md.App. at 514, 638 A.2d 1175 (emphasis added).

And it further ordered the Board to "consider such additional evidence, if any, presented by [Rotwein] to determine whether an unusual architectural aspect or unusual architectural aspects exist within the holding of *North v. St. Mary's County* that require the Board's consideration in determining *727 whether the requested variance should or should not be granted."

DISCUSSION

[1][2][3][4] Montgomery County contends that the Board of Appeals was correct in denying Rotwein's application for a zoning variance. In reviewing that determination, we apply the substantial evidence test. That test requires us to affirm an agency decision, if, after reviewing the evidence in a light most favorable to the agency, we find "a reasoning mind reasonably could have reached the factual conclusion the agency reached." *Bulluck v. Pelham Wood Apts.*, 283 Md. 505, 512, 390 A.2d 1119 (1978) (quoting *Dickinson-Tidewater v. Supervisor*, 273 Md. 245, 256, 329 A.2d 18 (1974)). Indeed, we may not substitute our judgment for that of the

Board of Appeals unless the agency's conclusions were not supported by substantial evidence or were premised on an error of law. *Stansbury v. Jones*, 372 Md. 172, 182, 184, 812 A.2d 312 (2002). And, in determining whether the agency's conclusions were premised on an error of law, we ordinarily give "considerable weight" to "an administrative agency's interpretation and application of the statute which the agency administers." *Bd. of Physician Quality Assurance v. Banks*, 354 Md. 59, 68-69, 729 A.2d 376 (1999).

[5] Section 59-G-3.1(a) of the Montgomery County Zoning Ordinance requires a "variance" applicant to prove that, owing to some characteristic "peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property." To determine whether that has been done, the Board must engage in the following two-step analysis:

The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is-in and of itself-unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning *728 provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that first step results in a supportable finding of uniqueness or unusualness, then a second step is taken in the process, i.e., a determination of whether practical difficulty and/or unreasonable hardship, resulting from the disproportionate impact of the ordinance caused by the property's uniqueness, exists.

Crownwell v. Ward, 102 Md.App. 691, 694-95, 651 A.2d 424 (1995) (emphasis in original).

[6] Other than to remark that the lot "appear[ed] to

906 A.2d 959
169 Md.App. 716, 906 A.2d 959
(Cite as: 169 Md.App. 716, 906 A.2d 959)

Page 9

be narrower than other lots in the neighborhood," the Board made no factual findings regarding uniqueness. **966 But we need not remand for such findings because the Board correctly ruled that Rotwein failed to demonstrate "practical difficulties." That deficiency alone was sufficient to defeat her application.

[7][8][9] As stated above, the Montgomery County Zoning Ordinance requires an applicant to prove that, owing to a unique characteristic of the property, the strict application of the ordinance "would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property." § 59-G-3.1(a). The determination of which standard to apply, "practical difficulties" or "undue hardship," rests on which of two types of variances is being requested: "area variances" or "use variances." Area variances are variances "from area, height, density, setback, or side-line restrictions, such as a variance from the distance required between buildings." *Anderson v. Bd. of Appeals, Town of Chesapeake Beach*, 22 Md.App. 28, 37, 322 A.2d 220 (1974). Use variances "permit[] a use other than that permitted in the particular district by the ordinance, such as a variance for an office or commercial use in a zone restricted to residential uses." *Id.* at 38, 322 A.2d 220. Because the changes to the character of the neighborhood are considered *729 less drastic with area variances than with use variances, the less stringent "practical difficulties" standard applies to area variances, while the "undue hardship" standard applies to use variances. See *Loyola Fed. Savs. & Loan Ass'n v. Buschman*, 227 Md. 243, 249, 176 A.2d 355 (1961).

The Montgomery County Zoning Ordinance authorizes only area variances; it, in fact, expressly prohibits the Board of Appeals from granting a variance "to authorize a use of land not otherwise permitted." § 59-G-3.1(d). Because the ordinance is worded in the disjunctive—"peculiar or unusual practical difficulties to, or exceptional or undue hardship upon"—and because the ordinance author-

izes only area variances, the less stringent "practical difficulties" standard applies:

When the terms unnecessary hardship (or one of its synonyms) and practical difficulties are framed in the disjunctive ("or"), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulties standard to area variances because use variances are viewed as more drastic departures from zoning requirements.

Belvoir Farms Homeowners Ass'n, Inc. v. North, 355 Md. 259, 276 n. 10, 734 A.2d 227 (1999).

[10] In determining whether practical difficulties exist, the zoning board must consider three factors:

1) Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

*730 3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson, 22 Md.App. at 39, 322 A.2d 220 (quoting *McLean v. Soley*, 270 Md. 208, 214-15, 310 A.2d 783 (1973)).

[11][12][13] That means that an applicant must show more than simply that the **967 building "would be suitable or desirable or could do no harm or would be convenient for or profitable to its owner." *Kennerly v. Mayor & City Council of Baltimore*, 247 Md. 601, 606-07, 233 A.2d 800 (1967).

906 A.2d 959
169 Md.App. 716, 906 A.2d 959
(Cite as: 169 Md.App. 716, 906 A.2d 959)

Page 10

He or she must demonstrate that the application of the ordinance to the unique characteristics of the land would cause "peculiar or unusual practical difficulties" that justify the variance requested. *Cromwell*, 102 Md.App. at 706, 651 A.2d 424. Furthermore, and of particular relevance to this case, as it formed the basis of the Board's decision, the "peculiar or unusual practical difficulties" must not be the result of the applicant's own actions. See *id.*

In support of her "peculiar or unusual practical difficulties" claim, Rotwein asserts two bases. The first is that, as an elderly woman, she wishes to have the ability to exit her car and enter her house without being exposed to "the elements." The second is that other sizes or locations for the garage would be substantially more expensive than the size and location proposed. But neither of these two grounds necessarily amounts to "peculiar or unusual practical difficulties," and, therefore, the Board did not err in denying Rotwein's requests for variances.

The Board found that, because there was ample room elsewhere within the setbacks to build a garage, Rotwein's chosen location, set some distance apart from the house, was "a matter of convenience, and [did] not rise to the level of a practical difficulty." The Board also found that any hardship that Rotwein did demonstrate was the result of improvements to the property and, therefore, self-created and did not justify the variances. These findings were supported by substantial evidence.

*731 Rotwein's architect, Dean Brenneinan, testified that alternative locations for the garage were possible, albeit financially undesirable. It was possible, he observed, to simply enclose the existing carport and relocate the front door. He also stated that the garage could be built closer to the house or that a one-car garage could be built within the setback requirements, though the former would require significant re-grading of Rotwein's land while the latter would reduce the value of her property.

Thus, Brenneinan's testimony established that either

a one-car or a two-car garage could, in fact, be constructed at a location on Rotwein's property that would not require variances, though at some additional expense to Rotwein or economic loss to her property. That testimony leaves Rotwein's claim that there was "no credible evidence in the record that an attached garage could be located elsewhere on the property, even if there were no other improvements located in the rear yard" in tatters.

Rotwein also argues that, as an elderly woman, she needs to have an enclosed garage to protect her from exposure to "the elements." That may be so, but it does not constitute "peculiar or unusual practical difficulties." As noted above, the "practical difficulty" standard requires the zoning board to find "more than that the building allowed would be suitable or desirable or could do no harm or would be convenient for or profitable to its owner." *Kennedy*, 247 Md. at 606, 233 A.2d 800; see also *Carney v. City of Baltimore*, 201 Md. 130, 136-37, 93 A.2d 74 (1952).

In *Carney*, an applicant sought an exception ^{FN3} from setback restrictions to add a **968 first-floor bedroom and bath to his house. 201 Md. at 133, 93 A.2d 74. The exception was requested *732 because Mrs. Carney had a "physical condition" that made it difficult for her to climb stairs. *Id.* The Court of Appeals upheld the denial of the exception, noting that "[t]he need sufficient to justify an exception must be substantial and urgent and not merely for the convenience of the applicant." *Id.* at 137, 93 A.2d 74. There was nothing "substantial and urgent" about Rotwein's desire not to be exposed to the elements when entering her house, and, therefore, it did not constitute "peculiar or unusual practical difficulties" warranting a variance.

FN3. "It should be borne in mind that because of the wording of the Baltimore City Zoning Ordinance, Baltimore City cases frequently arising in that city dealing with special exceptions and variances use these terms more or less interchangeably." *Loyola Fed. Savs. & Loan Ass'n v. Buschman*,

906 A.2d 959
169 Md.App. 716, 906 A.2d 959
(Cite as: 169 Md.App. 716, 906 A.2d 959)

Page 11

227 Md. 243, 249 n. 2, 176 A.2d 355
(1961) citing *Marino v. City of Baltimore*,
215 Md. 206, 216, 137 A.2d 198 (1957).

None of the potential problems advanced by Rotwein-exposure to the elements or the expenditures required to build a new front door or re-grade the property or the undesirability of a one car garage in a two-car garage neighborhood-rise to the level of "peculiar or unusual practical difficulties." As the Court of Appeals observed in *Carney*:

The expression "practical difficulties or unnecessary hardships" means difficulties or hardships which are peculiar to the situation of the applicant for the permit and are of such a degree of severity that their existence is not necessary to carry out the spirit of the ordinance, and amounts to a substantial and unnecessary injustice to the applicant. Exceptions on the ground of "practical difficulties or unnecessary hardships" should not be made except where the burden of the general rule upon the individual property would not, because of its unique situation and the singular circumstances, serve the essential legislative policy, and so would constitute an entirely unnecessary and unwarranted invasion of the basic right of private property.

Id. (emphasis added).

[14] Economic loss alone does not necessarily satisfy the "practical difficulties" test, because, as we have previously observed, "[e]very person requesting a variance can indicate some economic loss." *Cromwell*, 102 Md.App. at 715, 651 A.2d 424 (quoting *Xanthos v. Bd. of Adjustment*, 685 P.2d 1032, 1036-37 (Utah 1984)). Indeed, to grant an application for a variance any time economic loss is asserted, we have warned, *733 "would make a mockery of the zoning program." *Cromwell*, 102 Md.App. at 715, 651 A.2d 424.

[15] Financial concerns are not entirely irrelevant, however. The pertinent inquiry with respect to economic loss is whether "it is impossible to secure a reasonable return from or to make a reasonable use

of such property." *Marino v. City of Baltimore*, 215 Md. 206, 218, 137 A.2d 198 (1957). But Rotwein has not demonstrated that, unless her application is granted, it will be "impossible [for her] to make reasonable use of her property." *Id.* Indeed, she has made more than reasonable use of her property, as it houses not only her residence, but, among other things, a swimming pool and a tennis court.

Furthermore, the "hardships" about which Rotwein complains are self-created and, as such, cannot serve as a basis for a finding of practical difficulty. See *Cromwell*, 102 Md.App. at 722, 651 A.2d 424. Rotwein contends that the requested location for her garage is the only feasible location. But that is so only because of the location of the other improvements to the property, and the decision whether to **969 build those improvements and where to place them was Rotwein's. See *id.*; see also *Siedle v. Fluvanna County Bd. of Zoning Appeals*, 246 Va. 502, 436 S.E.2d 453, 456-57 (1993).

[16] Finally, there was substantial evidence to support the Board's conclusion that the variance requested would not be "the minimum reasonably necessary" under § 59-G-3.1(b). As noted above, there was extensive testimony regarding alternative locations and configurations for the proposed garage, which would not have required a variance. In fact, as we have previously recounted, Rotwein's own architect testified that it would be possible, though not financially desirable, to build a one-car garage, or to build a two-car garage closer to the house, without violating the setback restrictions. Because there was, as the Board found, "sufficient room within the building envelope of the property to locate a reasonably sized garage," the Board's conclusion that "the requested variances for the construction of a one-story addition [were] *734 not the minimum reasonably necessary" should not have been disturbed.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY REVERSED; CASE REMANDED TO THAT COURT WITH INSTRUCTIONS TO AFFIRM THE DE-

906 A.2d 959
169 Md.App. 716, 906 A.2d 959
(Cite as: 169 Md.App. 716, 906 A.2d 959)

Page 12

CISION OF THE BOARD OF APPEALS FOR
MONTGOMERY COUNTY. COSTS TO BE
PAID BY APPELLEE.

Md.App.,2006.
Montgomery County v. Rotwein
169 Md.App. 716, 906 A.2d 959

END OF DOCUMENT

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: DORIS AND SALVATORE GRASSO

08-354-A

DATE: January 7, 2009

BOARD/PANEL: Andrew Belt
 Lawrence Stahl
 Robert Witt

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Petitioner's Petition for Variance to allow an existing shed to be on the property closest to the street in lieu of farthest from the street.
2. Is the property unique pursuant to the conditions set forth in Cromwell vs. Ward?
3. If the property is unique pursuant to the conditions set forth in Cromwell vs. Ward; will failure to grant the Variance present a practical difficulty or unusual hardship on the property owner?

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board discussed the intent of the uniqueness requirement of Cromwell. At the hearing, a plat of the neighborhood was provided indicating that all of the corner lots are similar in that they are rectangular in shape and approximately the same size. The uniqueness of this particular subject property does not lie with the lot itself.
- The Board finds that the uniqueness of the property falls with the configuration of the house located on the property. Due to the size of the yard and the type of house built, the original homeowners found it necessary to have the house built so that while the address is Lee Drive, the front of the home faces Rockwell Avenue.
- By turning the house sideways on the property, the original homeowners, eliminated the backyard and limited the space that is available as the "backyard" space for such structures such as a pool or shed. The Petitioners purchased the property and decided to put a pool with a deck in the backyard of the property. The Petitioners requested a Variance because they already used the backyard portion of the property so they wanted permission to use the remaining front-yard portion of the property to place a shed.

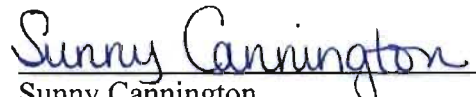
DECISION BY BOARD MEMBERS:

The Board determined that while the configuration of the house on the property does satisfy the uniqueness requirements of Cromwell, the practical difficulty of the situation was self imposed due to the placement of the pool in the location that would be appropriate for the placement of a shed.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to DENY the Variance requested by the Petitioners.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,


Sunny Cannington

DORIS AND SALVATORE GRASSO, SR.
400 LEE DRIVE
1ST E; 1ST C

08-354-A

Re: Variance to allow existing shed to be on the property closest to the street in lieu of farthest from the street.

2/6/08	Petition for Variance filed
4/15/08	Deputy Zoning Commissioner's Order denying Variance
5/5/08	Notice of Appeal filed by Francis Borgerding, Jr. on behalf of Appellants
7/28/08	Appeal received by Board
12/10/08	Board convened for Hearing
1/7/09	Board convened for Public Deliberation
2/5/09	Opinion and Order issued by Board DENYING Variance

Patricia Zook - Case Files for Next Week - Marked as 'Violation'

From: Patricia Zook
To: Matthews, Kristen
Date: 4/3/2008 11:53 AM
Subject: Case Files for Next Week - Marked as 'Violation'
CC: Bostwick, Thomas

Kristen -

A couple of the case files for hearings next week are marked as 'violation'. However the files do not contain the violation information packet that we usually receive. The cases are:

08-354-A located at 400 Lee Drive (no violation number on file)
08-360-A located at 9015 Fieldchat Road (file marked as violation 08-0034)

As the hearings are scheduled next week, please fax the violation information to me at 410-887-3468.

Thanks for your help.

Patti Zook
Baltimore County
Office of the Zoning Commissioner
County Courts Building
401 Bosley Avenue, Room 405
Towson MD 21204
410-887-3868
pzook@baltimorecountymd.gov

From: "Stanco, Denise" <Denise.Stanco@ssa.gov>
To: "Krysundra Cannington" <kcannington@baltimorecountymd.gov>
Date: 03/17/09 2:33 PM
Subject: RE: Grasso; 08-354-A

Hi Sunny,

Thank you for your informative reply. I double checked with the Civil Division and Mr. Grasso did not appeal. He must have received a separate notice that stated he had to have the shed removed by 03/05/2009 if he did not appeal as I did not see that indication in the notice sent to me. Regardless, the shed is gone! Hurray! (It was ugly, and in the front yard!) He took it down this past Sunday, the 15th. Ten days late but I'm not splitting hairs on this one.

Thank you!

Denise Stanco
VP - Colonial Gardens Improvement Association
410-965-8746

-----Original Message-----

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Tuesday, March 17, 2009 2:20 PM
To: Stanco, Denise
Subject: Grasso; 08-354-A

Ms. Stanco:

I apologize for the delay in getting back to you. We have reviewed your question with the Board that heard this case. Mr. Grasso had 30 days from the date of the Opinion and Order issued by the Board on February 5, 2009 to file an appeal and/or remove the shed from the property. You may wish to contact the Circuit Court for Baltimore County to verify that Mr. Grasso has not appealed his case to them before contacting Code Enforcement.

Thank you for your inquiry. Should you have any questions, please do not hesitate to contact me.

Sunny Cannington
Legal Secretary
County Board of Appeals
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
(410) 887-3180
kcannington@baltimorecountymd.gov

From: Krysundra Cannington
To: denise.stanco@ssa.gov
Date: 03/17/09 2:19 PM
Subject: Grasso; 08-354-A

Ms. Stanco:

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(410) 887-3180
kcannington@baltimorecountymd.gov

08-354-A

2/13/09

Denise Stanced

email denise.stanced@ssa.gov

How long do prop owners have to take down
the shed? ZC said 60 days. We didn't
specify time frame.

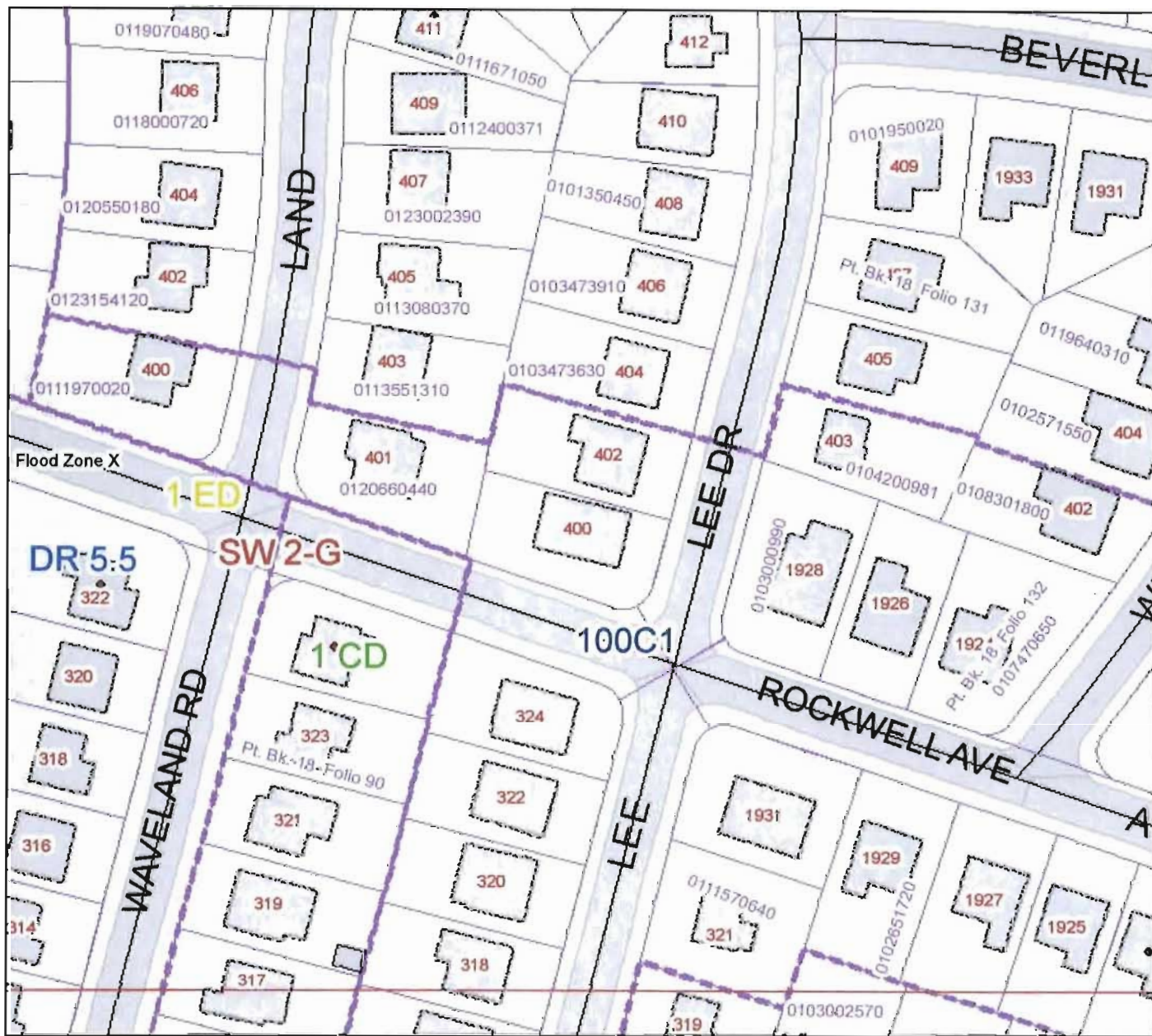
CASE NAME _____
CASE NUMBER _____
DATE _____

[illegible]

CASE NAME _____
CASE NUMBER _____
DATE _____

[illegible]

400 Lee Drive

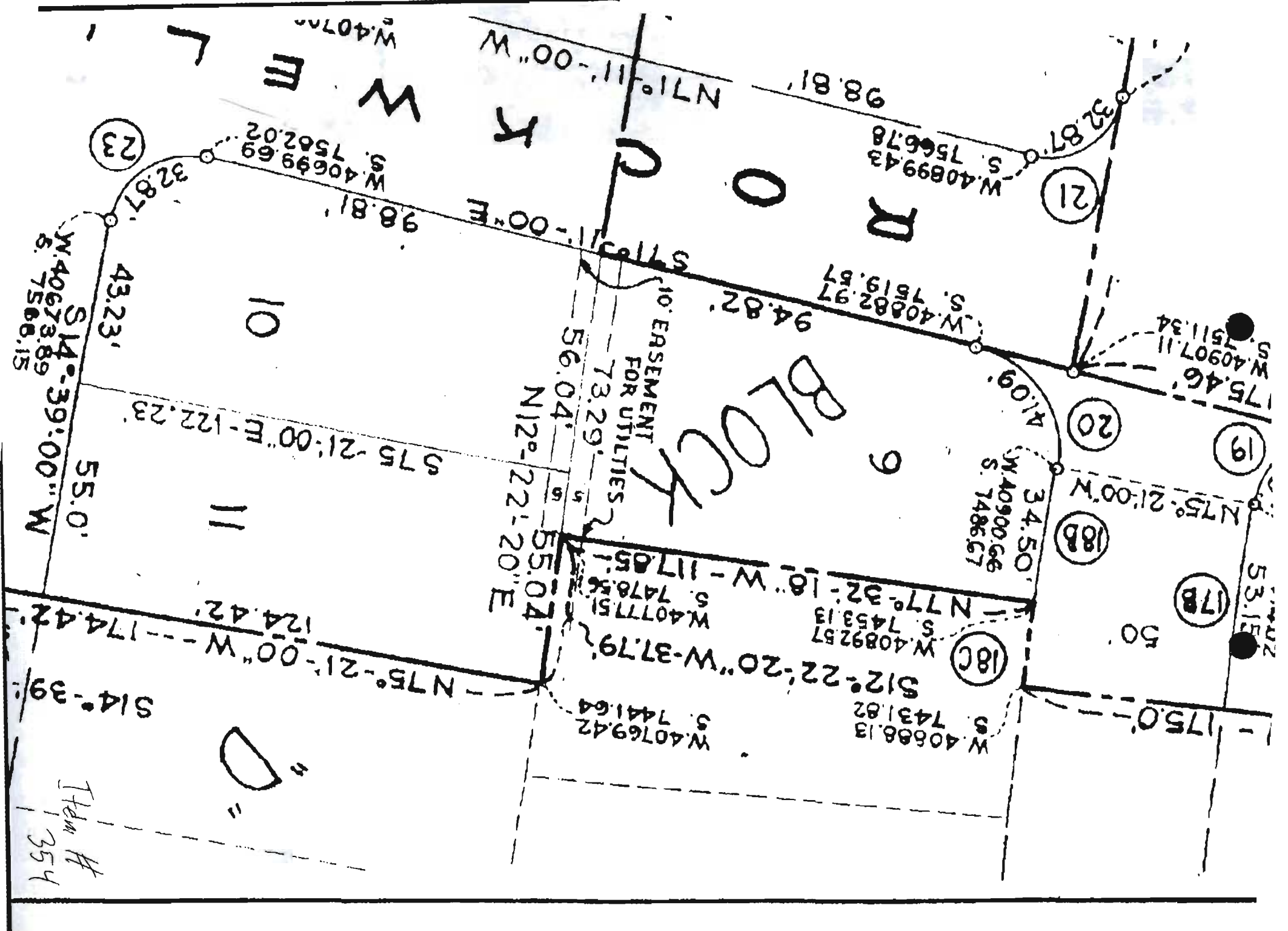


Publication Date: February 06, 2008
Publication Agency: Department of Permits & Development Management
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot

DQ Map Notes



Item # 354



List of Attendees

Board of Appeals Hearing

12.10.08

Denise STANCO - 1922 Altavue Rd. 21228

Mary Sites - 1926 DUMMOND RD.

Alan Smith - 1927 Rockwell Ave

Fred Walsmann - 1929 Altavue Rd

Mike Ernest - 2014 Rockwell Ave

Caroline Belensky - 2007 - Rockwell Ave

Joe Belensky - "

Mary Koeleck - 1921 Rockwell Ave —

REPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0070

September Term, 2006

LAWRENCE SWOBODA, ET AL.

v.

CHARLES WILDER, ET UX.

Adkins,
Woodward,
Moylan, Charles E., Jr.
(Retired, Specially Assigned)

JJ.

Opinion by Adkins, J.

Filed: April 4, 2007

Regarding
orientation

In this appeal from the approval of a Rodgers Forge building permit, we shall hold that determining the front, side, and rear orientation of a townhouse end unit situated at the corner of intersecting streets requires consideration of all physical characteristics of the property, not merely street address and foundation walls, and that in an appropriate case an end unit may front on a different street than the interior units in the same townhouse group.

The residence at the center of this litigation is an end of group townhouse at the corner of Pinehurst and Murdock Roads. The hotly debated question in Rodgers Forge is: which of these intersecting streets does this property front? The answer mattered to appellees Charles and Brigid Wilder,¹ because it determined where the front, side, and rear yards are located on their property, and consequently, whether the renovation plans approved by the Baltimore County Board of Appeals (the Board) comply with county setback requirements.

The interior townhomes that lie between the Wilder home and the corresponding end unit of this housing group unquestionably face Murdock Road. Like these neighbors, the Wilder home has a Murdock Road mailing address. Unlike the interior homes and the other end unit in this townhouse group, however, both the front door and the floor plan of Wilder property are oriented toward

¹After briefing, the Wilders advised that they sold the property. They elected not to participate in oral argument.

Pinehurst Road. Citing that orientation, the Department of Permits and Management, the Zoning Commissioner, and the Board concluded that the property fronts on Pinehurst Road for setback purposes. The Circuit Court for Baltimore County affirmed the Board.

Appellants are the Wilders' neighbors and the Rodgers Forge Community Association (the Protestants).² They challenge the Board's decision, decrying its precedential effect on their individual properties and their community as a whole. They raise three questions for our review, which we restate as follows:

- I. Did the Board err in failing to rule as a matter of law that Murdock Road is the front of the subject site?
- II. Did the Board err in considering the testimony of the Wilders and their architectural expert Warren G. Nagey of Chesapeake Design Group?
- III. Is the Board's decision arbitrary and capricious in light of its "inconsistent" prior decision in *Dorothy K. and Cheryl A. Milligan*, No. 02-519-A?

We find neither error nor inconsistency, and affirm the judgment.

FACTS AND LEGAL PROCEEDINGS

Baltimore County Zoning Laws

²Appellants are the Rodgers Forge Community Association and individual residents of Rodgers Forge: Lawrence Swoboda, Joseph Segreti, John and Norma O'Hara, Ron and Carol Zielke, Renee Rees, Sarah Kahl, Doug Campbell, Jennifer Clouse, Brent and Ann Matthews, Claire McGinnis, Jean Duvall, Bruce Hirshauer, Jeff Wible, Jennifer Sheggrud, Bernice Hirshauer, Barbara Leons, Robert Williams, and Roxanne and John Rinehart.

The setback requirements for the Wilder property are 10 feet for side yards and 50 feet for rear yards. See Baltimore County Zoning Regulations (BCZR) Art. 1B01.C. The County defines front, rear, and side yards as follows:

YARD, FRONT - A yard extending across the full width of the lot, between the front lot line and the front foundation wall of the main building.

YARD, REAR - A yard extending across the full width of the lot, between the rear lot line and the rear foundation of the main building.

YARD, SIDE - A yard extending from the front yard to the rear yard, between the side lot line and the side foundation wall of the main building.

BCZR § 101 (emphasis added).

Section 400 of the BCZR governs accessory buildings in residential zones, providing in pertinent part:

400.1 Accessory buildings in residence zones . . . shall be located only in the rear yard and shall occupy not more than 40% thereof. On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third. . . .

400.2.b For the purposes of determining required setbacks, . . . alleys shall be considered the same as existing (improved) streets. **The same shall apply to corner lots regarding the placement of accessory buildings. . . .**

400.3 The height of accessory buildings .

. . . shall not exceed 15 feet.
(Emphasis added.)

The Neighborhood And Property

Rodgers Forge is a Baltimore County community of approximately 1,800 brick residences that were developed beginning in the late 1930's by the James Keelty Company as a planned row house development. The neighborhood consists of six parallel streets running east-west and four intersecting streets running north-south; it lies between Bellona Avenue and York Road.

The Wilder lot is a trapezoid shaped 0.8 acre corner lot, zoned D.R. 10.5, with its longest street frontage being 113'4" along Pinehurst Road and its shortest frontage being 31'6" along Murdock Road. The property gradually widens from Murdock Road, to a width of 58'3" along a 15' alley that parallels Murdock Road and intersects Pinehurst Road. Although approximately 600 homes in "the Forge" are end of group units, many of these differ from the Wilder residence in that they (a) are not located on a corner lot, (b) have their main entrances leading from the same street as all the interior homes in their housing group, (c) have only one exterior door that faces the "address" street, and/or (d) share the same roofline, footprint, and common foundation walls as the interior units in the same group.

Photographs show that the roofline of the Wilder residence is trussed perpendicularly to the common roof line of the interior units in the same housing group, so that the Wilder roof faces west

toward Pinehurst Road rather than north toward Murdock Road. In addition, the Wilder residence has a different and larger footprint than the adjacent interior residences in the housing group. Specifically, the Wilder residence is wider and deeper than adjacent interior units, so that the east wall separating appellant Goldman's residence from the Wilder residence is only partially shared. Moreover, as a result of this larger footprint, the common foundation wall facing north toward Murdock Road, in which all interior units of this housing group have their front entrances, "dead ends" into the east wall of the Wilder residence, forming a 90 degree corner where Goldman's residence intersects with the Wilder residence. Similarly, the rear foundation wall common to the interior units ends at another 90 degree corner into the alley side of the Wilders' east wall.

The floor plan of the Wilders' home is oriented so that a centrally located entry door and hallway faces west toward Pinehurst Road. Off this foyer are a living room, dining room, and staircase. Leading out from this door to the sidewalk along Pinehurst Road, there is an approximately 6' by 4' stone stoop and matching path. To the right and left of the door are symmetrical bay windows that extrude from the 39 foot wide facia facing Pinehurst. On the second floor, centered above the door and bay windows, are three smaller windows flanked by shutters. On the third floor are three dormer windows.

The north side of the Wilder home facing Murdock Road measures only 22.5 feet in width. It has a door located to the right of a brick chimney, a shuttered window to the left of the chimney, and a raised 16' by 8' stone porch. The door from the patio leads directly into the living room. There are no steps or path leading from the porch to the sidewalk on Murdock Road. On the second floor are two shuttered windows on either side of the chimney. On the third floor, where the pitch of the roof reduces the width of this side, two smaller and unshuttered windows flank the chimney.

The south side of the property has a door leading from the kitchen to a yard. A detached 20' by 20' brick garage lies between this side of the house and the alley paralleling Murdock Road. A gated wooden privacy fence extends from the corner of this face to the sidewalk on Pinehurst Road, then continues along that sidewalk to a gated masonry wall that separates the Wilder yard from the alley. Another wooden privacy fence separates the Wilder yard from the adjacent yard of appellant Jill Goldman.

The east side of the Wilder residence separates it from the Goldman residence. As noted above, however, the Wilder's east wall extends beyond the footprint of the Goldman residence.

Representing that the front yard of their home faces Pinehurst Road, the Wilders obtained a building permit to add a 13' by 13' one story extension to their kitchen, as well as an 8.5' by 13' covered porch connected to the kitchen addition, for a total

expansion of 21.5' by 13'. If the front of the Wilder home does face toward Pinehurst Road, then the kitchen addition would be in the "alley" side yard, between the house and the garage, and therefore in compliance with the 10 foot side yard setback required under Baltimore County zoning law. If the front of the Wilder home faces Murdock Road, however, then the proposed addition would be in the rear yard, so that a variance reducing the 50 foot setback to 29 feet would be necessary.

Neighborhood Objections

An anonymous complaint to zoning authorities asserted that the Wilder home fronts on Murdock rather than Pinehurst Road. The County inspected the property, then issued a stop work order on the ground that the Wilders' permit had been obtained through "false or misleading information" regarding the orientation of the property. The Wilders successfully challenged the stop work order, obtaining the Zoning Commissioner's ruling that their property faces Pinehurst Road.

The Protestants object that the construction of the proposed addition in the yard between the Wilder home and the alley would break up the continuity of the open yards in the rear of interior units comprising the Wilders' townhome group. When the stop work order was rescinded, the Protestants appealed to the Board.

Asserting "a public interest in the proper definition or analysis of the situation of front, side, and rear yards in a

townhouse (row) setting," People's Counsel for Baltimore County also filed a hearing memorandum with the Board, but did not participate in the ensuing evidentiary hearing. Counsel urged the Board to conclude that the relevant Baltimore County zoning laws were "either ambiguous or flexible," so that "the totality of the circumstances may be taken into consideration." Using that approach, the "preliminary view" expressed by People's Counsel, premised upon an incomplete factual record, was that "the front yard should be determined to be consistent with the Murdock Road frontage of the other houses in the row."

The Wilders' Case

At the evidentiary hearing before the Board, Mr. Wilder testified that when he first looked at the house, he was shown a brochure with a photograph featuring the Pinehurst Road side and describing the house as an "Attached Brick Center Hall Colonial Facing Pinehurst Road." The brochure, along with exterior and interior photographs of the property, were introduced into evidence.

Wilder explained that on the Pinehurst Road side of the house are the main entrance door, doorbell, mailbox, porch light, lamppost, and a stone walkway leading from the sidewalk to the door. This door is centrally placed between two large bay windows. On the face of the house next to the door are house numbers and a welcome sign. The Wilder family and their visitors use the

Pinehurst Road door exclusively for entry, mail, and deliveries.

Just inside the Pinehurst road door, the dining room is to the right of the central hallway and staircase, while the living room is to the left. Although there is a door leading from the living room out onto the stone porch facing Murdock Road, Wilder did not have a key to that door. Wilder was not aware of there ever having been a walkway from the sidewalk to the Murdock Road door or porch.

The galley style kitchen in the house has a door leading outside to a separate garage and a 15 foot wide alley. The kitchen did not provide satisfactory room for the Wilder family, which includes three school-age daughters. After visiting other homes in the neighborhood, Wilder preferred to add a breakfast room like others he saw. Wilder presented photographs of other end of group homes, depicting 13 of such homes with porches or additions in the analogous location proposed for the Wilder home. But Wilder did not know if variances were necessary or obtained for those additions.

Mrs. Wilder testified that visitors always come to the main door facing Pinehurst, where they ring the doorbell. No one has ever come to the Murdock Road door. Packages, mail, and the Rodgers Forge Community Association newsletter and correspondence are hand-delivered to that entrance as well.

The Wilders' contractor, Mr. Cooper, recounted that he reviewed a plat of the property with several people in the Zoning

office, including Carl Richards, in order to discuss what could be done. Cooper proceeded on the understanding that the addition could be built on the alley side of the house because the home faced Pinehurst Road. A building permit was issued on that basis. Construction proceeded until the stop work order was issued.

The Wilders also called Warren G. Nagey, of Chesapeake Design Group, who offered his expert opinion as an architect that the house fronts on Pinehurst. In his view, the house has two side yards and a front yard, with no back yard. He further opined that there was no other place to put an addition on the house, and that the proposed addition would not block the adjoining neighbor's residence. On cross-examination, Nagey acknowledged that the corner position of the lot means that if the Wilders wished to use the yard between their home and Murdock Road for a swing set or gazebo, that would interfere with the neighbor at 203 Murdock, whose front yard would be adjacent to such structures.

Carolyn Winston, a real property assessor with the Maryland State Department of Assessments and Taxation, reported that when she visited the Wilder house to perform a tax reassessment, she went to the main door on the Pinehurst side. Two Rodgers Forge homeowners, one of whom is a licensed real estate broker, testified that they live in similar homes. Each considered the Wilder home to front on Pinehurst Road. Neither these homeowners, nor another neighbor who lived on Murdock Road, objected to the proposed

addition or felt that it would detract from neighborhood integrity or property values.

The Protestants' Case

Joseph A. Segreti testified on behalf of the Board of Directors of the Rodgers Forge Community Association, which opposes the proposed addition. He asserted that property values in the neighborhood reflect the community's strict adherence to the Keelty Company's original concept. In his view, the Wilder addition would harm the architectural integrity of the neighborhood and reduce property values, by mixing incompatible design and materials and reducing the airflow and sunlight through the back yards of other homes in the same housing group.

The Wilders' next door neighbor, Jill Goldman, recounted the concerns that led her to oppose the addition. Although she initially stated in writing that she agreed to the proposal, she did so in an effort to avoid conflict with the Wilders. When she discovered that the Wilders had rerouted electrical wires and attached them to the back of her house without her knowledge or consent, she changed her mind about opposing the addition. She expressed concern that the addition would block air and light into her home and decrease the value of her property.

Rodgers Forge resident Carol Zielke, a neighbor of the Wilders, testified that other end of group homes have the same floor plan as the Wilder home. She counted the number of group

homes in the neighborhood and estimated that approximately one-third of all Rodgers Forge homes could be affected by a ruling that the Wilder home faces Pinehurst Road. She did not consider the size of the existing kitchen to be a hardship, pointing out that all homes in the community have had this same size kitchen for years.

Supervisor of Zoning Review Carl Richards reviews "all development proposals, permits and all information, referrals, to the zoning office." After receiving an anonymous phone call "from the community" complaining about the Wilder addition, he visited the site on his lunch hour.

Richards identified many factors that are considered in deciding where the front of a dwelling is locating. Among these are address, neighborhood design, placement of the front door, and arrangement of kitchen and bedrooms. The process by which Richards' office determines orientation includes "pretend[ing] that "the building is in the center of a hundred acres." After walking "around the house," several questions arise:

What looks like the front? Where are your accessory buildings? What really physically is the physical construction of the building? What does it look like in the front?

That's without regard to what side it faces, whether it's front or rear. So its actual physical conditions are depended on more than anything else. The intent of the owner is not as important as physical conditions.

Richards then explained why he agrees with the Protestants that the Wilder home fronts on Murdock Road. He observed that it is not uncommon to have no entrance to the front of a home in Baltimore County. Disagreeing with the Zoning Commissioner, and noting that Baltimore County zoning regulations require garages to be in the rear yard, Richards regards the detached garage as an "elephant in the living room," requiring the conclusion that the yard where the addition is proposed is the back yard of the Wilder property.

Herbert A. Davis, a realtor, appraiser, and former member of the Board of Appeals, reported his expert opinion that the Wilder home faces Murdock Road. He cited its "appearance," "address at 201 Murdock Road," and "the garage . . . in the rear[,] " but acknowledged that "by definition, a center hall colonial house . . . has the hall in the center," where the front door opens. He feels that the proposed addition would negatively affect the use of adjacent properties owned by Mrs. Goldman and others in the townhouse group. Moreover, by setting precedent for other similarly situated homes in Rodgers Forge, approval of the addition could have a significant negative effect on the value of other homes in the group and the greater community.

James Keelty, grandson of the original developer of Rodgers Forge and current representative of the Keelty Company, also opposed the Wilder addition. He recalled watching as a boy when

common foundations were poured "more or less in a monolithic foundation." Houses, garages, and alleys were built at the same time. At the time of the hearing, moreover, the Keelty Company was in the process of building townhouse groups with "the garage . . . in the front of the house" on property immediately to the north of Rodgers Forge, in a development called Rodgers Choice. Keelty testified that the County had determined that an end of group home located at One Anvil Court in that new community, which he believes is similar to the Wilder home, faced Anvil Court.

The Protestants' final witness was Jack Dillon, who testified as an expert in land use and planning. He formerly worked for Baltimore County in that capacity. Dillon opined that the Wilder home fronts on Murdock Road. In support, he explained that townhouse groups were built to a specified design that is consistent throughout the Rodgers Forge community. Each group has continuous and common foundation walls that lie at a specific setback, with the front foundation wall running parallel to the street of its address and the rear foundation wall running parallel to the alley. Interior walls separate each unit.

Dillon construed the BCZR section 101 definition of "front yard" as "a yard extending across the full width of a lot between the front lot line and the front foundation wall of the main building" to mean that the Wilder home fronts on Murdock Road. He views this construction as consistent with the BCZR section 400.2

and 400.3 requirements governing accessory buildings such as garages, which are not permitted in side yards. Using a community map, Dillon illustrated the potential harm that a contrary ruling might have on the Rodgers Forge community, given the typicality of the Wilder home.

The Protestants also presented two memoranda from the Office of Planning to Timothy M. Kotroco, Director of the Department of Permits and Development Management, regarding the proposed addition. These reflect that County planners initially approved the Wilder addition, then opposed it, then re-approved it with conditions.³ The later memo, dated February 8, 2005, titled "2nd REVISED COMMENTS," authored by Mark A. Cunningham, and signed by Section Chief Lyn Lanham, states:

After further review of the [Wilders'] request, and another site visit of the subject property, the Office of Planning retracts the revised comments issued by this office dated December 2, 2004.

³The memorandum dated December 2, 2004, authored by Pat Keller, Director of the Office of Planning, states:

After conducting a more detailed review of the subject proposal, the Office of Planning recommends that the [Wilders'] request be denied. This office is of the opinion that the ends of group units, such as the subject property, are unique. Their orientation is such that adding the proposed addition would not be appropriate or in keeping with neighborhood character, and would set a negative precedent in this older, well-established community.

This office does not oppose the [Wilders'] request providing the following conditions are met:

1. Exterior building materials of the proposed addition shall be similar to the existing dwelling.
2. The proposed addition shall not go beyond 1 story.
3. Submit building elevations to this office for review and approval prior to the issuance of any building permits.

The Board's Decision

The Board affirmed the Zoning Commissioner's conclusion that the Wilder residence fronts on Pinehurst Road. Acknowledging "the laudable efforts of the Rodgers Forge Community Association to maintain the architectural integrity of the neighborhood[,] " the Board pointed out that "a number of homes in Rodgers Forge, similar to that of the Wilders in the instant case, have constructed porches or additions from the side of the building where the garage is located or on the opposite side from where the garage is located." The Board agreed with People's Counsel that the orientation of the home is not defined as a matter of law:

The Board is not inclined to rule that, as a matter of law, either Pinehurst Road or Murdock Road is the front of the property in question. The Board considers that the law is either ambiguous or flexible in this area as noted by People's Counsel in his Brief, and feels that the totality of the circumstances may be taken into consideration in this case.

The Board then considered the BCZR definition of "front yard"

and the dictionary definition of "width" as "a distance from side to side; a measure taken at right angles to length; largeness or greatness in extent and girth at the widest part." It also "accept[ed] the testimony of architect Warren Nagey and the other residents" of similar end of group townhouses that certain of these corner residences in Rodgers Forge are constructed so that they face a different direction than the other units in their housing group. Collectively, the evidence and law persuaded the Board

that the Wilders' home is fronting on Pinehurst [Road]. The widest part of the building, 39 feet, fronts on Pinehurst Road. The 22.5-foot ends facing the alley and Murdock Road do not constitute the widest part of the building. . . . [T]he main entrance to the home is through the door facing Pinehurst Road. The home is a center-hall Colonial with a center hall beginning as one enters the door facing Pinehurst Road. The Pinehurst side of the house is the most attractive with two bay windows on either side of the door. There are no structures on the front of the house facing Pinehurst to detract from it. There is a stone walkway from the sidewalk on Pinehurst to the front door and a decorative lamppost on the corner of the walk between the front walk and the Pinehurst walkway. The welcome mat is located at the door as well as the mailbox and doorbell.

There is one door on the Murdock side of the home which goes to a stone patio. There is no walkway from the patio to the Murdock Road sidewalk, and testimony from a neighbor who has lived across the street for 43 years indicated that there never was a sidewalk from Murdock Road to the Murdock side of the Wilders' home.

As stated by Mr. Carl Richards in his testimony on behalf of the Protestants, if the

Wilder home was placed in the middle of a 100-acre field, there would be no question that the front of the home was the side of the house facing Pinehurst Road.

The Board enumerated and rejected each of the Protestants' arguments. As for the location of the garage and fences, the Board explained:

The home was constructed in the late 1930s, long before any zoning ordinances were passed with respect to the construction of garages in the rear of homes. If anything, the garage may be a nonconforming use as it is presently located. The same can be said for the 6-foot fences which separate the Wilders' home from their neighbor at 203 Murdock Road and also runs along the side of the property next to the alley off of Pinehurst.

The Board distinguished the Keelty Company's new construction in Rodgers Choice:

The main and only entrance to the home [at One Anvil Court] faced Bellona Avenue. The side of the house, determined by the County to be the front, had a built-in garage and one window - no door. However, the plan of the house showed the main entrance on Bellona Avenue and a small porch with steps going down the side of the porch toward Anvil Court. It was not clear if a path from the garage and driveway to the porch was to be constructed, but no stairs were shown to lead from the porch to Bellona Avenue. Therefore, even if the main entrance was on the Bellona Avenue side of the house, visitors and residents would normally come to the Anvil Court side of the house and go around to the Bellona Avenue entrance. The Board can understand why the County determined that the Anvil Court side of the house would be the front. This does not change the position of the Board in the instant case.

With respect to the effect of the Wilder addition on other properties in Rodgers Forge, the Board concluded "that allowing the construction . . . would [not] affect the integrity of the other properties in Rodgers Forge." The "conditions set forth by the Planning Office in its February 8, 2005 memo" would be sufficient to preserve and protect other properties. Moreover, "it would be far more detrimental to find that the Pinehurst Side of the Wilder home was a side yard," because that "would allow for an addition to be constructed within 10 feet of the property line on Pinehurst Road and would certainly have an adverse effect on the architectural integrity of the home as well as other homes in the neighborhood."

Finally, the Board concluded without discussion that it "considers that its position is consistent with its position in . . . *Dorothy K. and Cheryl A. Milligan*, Case No. 02-519-A, as well as the decision of the Court of Appeals in *City of Baltimore v. Siwinski*, 235 Md. 262, 263 (1964)."

Judicial Review

The Protestants petitioned for judicial review by the Circuit Court for Baltimore County. The court affirmed the Board, agreeing that the orientation of the home was not purely a matter of law and finding substantial evidence to support the Board's determination that the Wilder home fronts on Pinehurst Road. Addressing the identical questions that appellants have renewed in this appeal,

the circuit court held:

- The Board did not err in failing to rule as a matter of law that the Wilder property fronts on Murdock Road. The court agreed that County zoning regulations are not sufficiently definite to mandate that conclusion.
- The Board did not err in relying on the testimony of the Wilders, which was "rooted in personal knowledge and experience," and their architect, whose expertise was "accepted . . . without objection by the Association." Nor were "the material facts" supporting the conclusion that Murdock Road is the front "uncontradicted in the record," as the Protestants posit. The court cited the testimony of

zoning expert Jack Dillon and zoning office employee Carl Richards. . . . Dillon stated that the placement of an alley does not, in and of itself, determine that the alley side of a lot is in the "rear." Rather, the alley's placement "must be taken in context with other things." Dillon also testified that the placement of a garage on a property "certainly is one of the things that [the zoning office] looks at."

Carl Richards presented a series of factors that the zoning office uses to resolve which face of a building is the front. That list of factors included the location of any accessory buildings, the location of the front door, the location of the interior rooms and their orientation within the home, which side "looks to the front" if situated "in the center of a hundred acres," and the "physical construction of the building."

- The Board's decision can be reconciled with its decision in *Dorothy K. and Cheryl Milligan*, and is therefore not arbitrary and capricious. The facts

surrounding the Board's determination that the Milligans' corner residence in Stoneleigh fronts on Oxford Road are similar, in that the Board considered Oxford Road to be the front due to the location of the sidewalk and main entrance to the living quarters, as well as the street address.

DISCUSSION

The Protestants complain that the Board "ignored the BCZR and ignored the uncontested and undisputed facts before them in arriving at [its] decision." We address each of their assignments of error in turn.

Standard Of Review

The scope of our review of administrative agency action is narrow and we are "not to substitute [our] judgment for the expertise of those persons who constitute the administrative agency." Accordingly, this Court is tasked with "'determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law.'"

Days Cove Reclamation Co. v. Queen Anne's County, 146 Md. App. 469, 484-85, cert. denied, 372 Md. 431 (2002) (citations omitted).

"In reviewing the decision of an administrative [zoning] agency, 'we reevaluate the decision of the agency, not the decision of the lower court.'" *Id.* at 484-85 (citation omitted). We may "uphold the decision of the Board only 'on the basis of the agency's reasons and findings.'" *Umerley v. People's Counsel for Baltimore County*, 108 Md. App. 497, 504, cert. denied, 342 Md. 584

(1996) (citation omitted). In reviewing that rationale, "the expertise of the agency in its own field should be respected." *Marzullo v. Kahl*, 366 Md. 158, 172 (2001). Consequently, on "some legal issues, a degree of deference should often be accorded the position of the administrative agency. Thus, an administrative agency's interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts." *Id.* at 173. The Board's "presumed expertise in interpreting the BCZR, developed over the . . . years, is what gives weight to appropriate deference in our analysis of its legal reasoning[.]" *Id.* at 173 n.11.

With regard to questions of fact, we will only disturb the decision of an administrative agency if "a reasoning mind reasonably could [not] have reached the factual conclusion the agency reached." Thus, "[a] reviewing court should defer to the agency's fact-finding and drawing of inferences if they are supported by the record."

Days Cove Reclamation, 146 Md. App. at 485.

I. Orientation

A. Failure To Determine "Front Yard" As A Matter Of Law

Renewing their threshold legal challenge to the Board's decision, the Protestants argue that "[t]he Board erred in failing to rule as a matter of law that Murdock Road was the front of the subject site, as required by [BCZR] § 101 defining 'front yard' and § 400.1, § 400.2 and § 400.3 defining accessory uses." In support,

they cite the "undisputed" testimony of Keelty, Dillon, and Richards that the front foundation wall for this group of townhouses is parallel to Murdock Road, as well as the County's requirement that the garage be located in the rear yard. In their view, the regulations defining front yard and requiring garages to be in the rear yard mandate a finding that the Wilder home fronts on Murdock Road.

The Wilders respond that the Board correctly concluded that yard orientation cannot be determined as a matter of law based solely on these BCZR regulations. They argue that the Board properly considered all of the evidence concerning the physical construction of the house, rather than limiting its analysis solely to the foundation and garage. We agree.

In *City of Baltimore v. Swinski*, 235 Md. 262, 265 (1964), the Court of Appeals addressed a comparable orientation dispute in the course of holding that the proposed apartment buildings would violate a Baltimore City zoning ordinance "requir[ing] the main entrance of a building to face the street side of a lot[.]" The *Swinski* Court interpreted analogous Baltimore City regulations⁴ and

⁴The City ordinances at issue in *Swinski*

define[d] a *front yard* as the space 'between the front line of the building and the front line of the lot.' Ord. § 48(m); a *rear yard* as the space 'between the rear line of the building and the rear line of the lot.' Ord. § 48(n); and a *side yard* as the space 'between

(continued...)

followed other courts in holding that the determination of which side of a building is the "front" requires examination of the particular physical characteristics of the property in question, including the orientation of any main entrance that is both architecturally and functionally prominent:

[W]e think it is clear that **the physical construction of a building establishes the frontage for purposes of determining whether there has been compliance with the zoning ordinance.** In *Rhinehart v. Leitch*, 107 Conn. 400, 140 A. 763 (1928), it was said (at p. 763 of 140 A.) that:

'The word 'front' as applied to a city lot has little, if any, inherent application, but it takes on a borrowed significance from the building which is or may be constructed thereon. Connecticut Mutual Life Ins. Co. v. Jacobson, 75 Minn. 429, 432, 78 N.W. 10; Adams v. Howell, 58 Misc.Rep. 435, 108 N.Y.S. 945, 947. **As applied to a building 'front' in general usage refers to that side of it in which is located the main entrance.** *Howland v. Andrus*, 81 N.J.Eq. 175, 180, 86 A.

⁴(...continued)

the building and the side lot line.' Ord. § 48 (o). The *front* or *frontage* of a lot is defined as 'that side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.' Ord. § 48(t).

Swinski, 235 Md. at 264 (1964). Cf. *Town of Berwyn Heights v. Rogers*, 228 Md. 271, 276 (1962) (reviewing Prince George's County zoning ordinance with detailed provisions for building on corner lots).

391; *Oxford and Standard Dictionaries*, 'front.' **When used of a lot with a house upon it, it means that portion of the lot abutting upon the street toward which the house faces.'**

See also . . . *Howard Homes, Inc. v. Guttman*, 190 Cal. App. 2d 526, at p. 531, 12 Cal. Rptr. 244, at p. 247 (1961), where it was said that **the 'front' or 'face' of a house 'means that portion which contains the main entrance and which is the most attractive aesthetically.**

Id. at 264-65. Cf. *Bianco v. City Eng'r & Bldg. Inspector*, 187 N.E. 101, 103 (Mass. 1933) (determination of "rear lot line" was "largely a matter of fact" requiring "the exercise of sound judgment as applied to the particular neighborhood," although "partaking in some aspects of questions of law"); *Davis v. City of Abilene*, 250 S.W.2d 685, 687-88 (Tex. Civ. App. 1952) (rejecting argument that building faced an alley, as an attempt to avoid 25 foot front yard setback requirement by "an unnatural construction of the side yard provision").

In contrast, we find no precedent for the proposition that an end of group townhouse located at the corner of two intersecting streets necessarily faces its "address" street. To be sure, the street address of a particular property is relevant to any determination of orientation. And in most instances, all units in a townhouse group will be given consecutive addresses on the same street. In the absence of any other evidence, these two facts might be considered substantial evidence to support a finding that

the corner residence fronts on the address street. But such a finding is not required in all cases. As the Court of Appeals recognized in *Swinski*, the Board may examine other relevant evidence concerning the physical characteristics of the subject property as they bear on the orientation issue.

In this case, we agree with the Board, the Wilders, and People's Counsel that, in addition to considering the location of foundation walls and the garage, the Board also properly considered other physical factors, including exterior appearance, interior layout, length of each face, and consistent use of the Pinehurst Road door as the main entrance. Moreover, we conclude that these characteristics provide substantial evidence to support the Board's factual finding that the end of group townhouse at 201 Murdock Road fronts on Pinehurst Road for purposes of determining front, side, and rear yards. As the *Swinski* Court recognized, identifying the front of a dwelling has historically and properly been accomplished by examining, *inter alia*, the aesthetics and location of the main entrance. Here, there is no debate that both the aesthetics of the house (floorplan, roofline, width, windows, etc.) as well as the location of the main entrance indicate that the house fronts on Pinehurst Road. The Murdock Road street address, the door into the living room, and the attachment of the Wilder unit to the interior units facing Murdock Road are the only contrary physical characteristics. We are not persuaded that one of the latter

characteristics "trumps" other aesthetic and entrance characteristics, or that, collectively, they mandate a finding that the Murdock Road side of the house is the front yard.

Similarly, we reject the Protestants' argument that language in the BCZR definition of "front yard" and BCZR restrictions on placement of garages dispositively answers the orientation question presented by this "corner townhouse" case. Specifically, there is nothing in the garage regulation requiring us to apply that restriction as an irrebuttable presumption that a nonconforming garage, built before any restrictions on garage location went into effect, necessarily is located in the rear yard by *post hoc* virtue of said regulation. Nor do we agree that the common foundation wall reference in the definition of "front yard" aids the Protestants' cause, given that this particular end of group corner townhouse does not share either the front or the rear foundation walls that are common to the interior units in this townhouse group.⁵

We therefore hold that the Board did not err in considering

⁵As discussed above, photographs, testimony, and plans reveal that the Wilder residence does not share the common front and rear foundation walls with its interior unit neighbors in the same housing group. The common wall into which the front doors of these interior units are placed "dead ends" into the east wall of the Wilder residence, creating a 90 degree angle rather than a continuous front foundation wall. In this respect, the Wilder residence materially differs from those Rodgers Forge end units that share a common front foundation wall and substantially the same footprint as their interior unit neighbors.

physical factors other than the foundation wall and garage. The Board's examination of evidence concerning the location of the front door and front walkway, the width of the Pinehurst Road side, the floor plan and positioning of bay windows, the usage of those who live in and visit the house, and the exterior attributes of the house when viewed out of its end of group and corner context (including the roofline) was consistent with the analytical approach approved by the Court of Appeals in *Swinski*.

B.

Alleged Failure To Give Proper Weight To Evidence

The Protestants argue in the alternative that, even if the BCZR regulations are not dispositive, the testimony of zoning and real estate experts Dillon, Richards, and Keelty "'trumps' the lay testimony presented by the Wilders." In support, they cite *Harford County People's Counsel v. Bel Air Realty Assocs. Ltd. P'ship*, 148 Md. App. 244 (2002), for the proposition that the testimony of planning and zoning experts is "entitled to more credibility based upon long-standing administrative practice and custom" than the testimony of any witness presented by the Wilders.

The Protestants' reliance on *Bel Air Realty Assocs.* is misplaced. Our decision and rationale in that case actually supports the Board's decision in this case, because this Court relied on the local planning department's expertise in interpreting the county zoning laws as grounds to affirm its decision that a proposed commercial project was not "directly accessible" within

the meaning of zoning laws restricting conventional development with open space to properties with direct ingress/egress to arterial or collector roads. See *id.* at 258-61. Harford County zoning authorities concluded the project was not directly accessible because it did not front on such a road, but the Board, relying on expert testimony presented by the developer, concluded there was no direct access. The circuit court reversed and this Court affirmed that decision. See *id.* at 268. In doing so, we observed that, "even if the phrase 'directly accessible' were ambiguous to the point of obscuring the evident meaning of the statute," nevertheless, "the administrative interpretation of the 'directly accessible' requirement" by the Department of Planning and Zoning "trumps the testimony of Bel Air Realty's experts and its interpretation to the contrary." *Id.* at 267. Citing established reasons for judicial deference to an agency's expertise in interpreting a statute that it is charged with enforcing, we were "convinced that the Department's interpretation is a persuasive articulation of the 'directly accessible' language of" the zoning statute. See *id.* at 267-68.

The Protestants misunderstand our "trumping" language in *Bel Air Realty* as an instruction to defer to **any** zoning expert's opinion regarding the meaning and application of a zoning statute, regardless of whether the Baltimore County Department of Permits and Management and the Board concur with that opinion. To the

contrary, *Bel Air Realty* merely confirms that courts appropriately defer to a local zoning agency's expertise in interpreting the zoning regulations it administers, as occurred in this case. Accordingly, we conclude that the Board did not err in failing to give dispositive weight to the opinions expressed by the Protestants' zoning experts.

II.

Testimony Of Wilders' Architectural Expert

Despite the substantial evidence in the record to support the Board's determination that the Wilder home faces Pinehurst, the Protestants contend that "uncontradicted" material facts establish that Murdock Road is the front of the Wilder home, because "the Board erred in not disregarding the speculative testimony of the Wilders and their architectural expert Warren G. Nagey of Chesapeake Design Group." They analogize this case to *Lewis v. Dep't of Natural Resources*, 377 Md. 382, 429-30 (2003), in which the Court of Appeals concluded, *inter alia*, that the expert who testified on behalf of the local agency had no empirical data to support her conclusions. In the Protestants' view, the two cases are similar because the only expert evidence the Board had was favorable to a finding that the Wilder home fronts on Murdock, *i.e.*, that "there was a common front foundation wall on Murdock Road as evidenced by the Keelty and Dillon testimony and that the garage was located in the rear yard in compliance with the BCZR § 400 as again articulated by Dillon and Richards[.]"

We are not persuaded by this argument. As a threshold matter, the Protestants did not object to the testimony of Mr. Nagey, and therefore waived their objection to the Board's consideration of it. Moreover, as discussed in section I, neither the garage location nor the foundation wall requires acceptance of the Protestants' argument. We conclude that Nagey's opinion that, from an architectural perspective, the Wilder home fronts on Pinehurst, was supported by ample factual evidence, as enumerated above with respect to the location of the main entrance, as well as its exterior appearance and interior floor plan. In this respect, this case stands in stark contrast to *Lewis*, in which the agency's expert had no factual data to support her opinion.⁶

III. Consistency With Prior Decision

In their final assignment of error, the Protestants argue that "[t]he Board was arbitrary and capricious in ignoring its opposite conclusion in [the] previous case [of] *Dorothy K. and Cheryl A. Milligan*, Case No. 02-519-A." They contend that the Board's decision in *Milligan*, that a Stoneleigh residence located at the

⁶In *Lewis*, the Court of Appeals held that the decision to deny a special exception for hunting cabins had been "improperly influenced by the [Chesapeake Bay] Commission's expert, Ms. Chandler," who admitted on cross-examination that she did not have an environmental study or any other quantifiable data to support her opinion that the "cumulative impacts" of the proposed cabins on the estuary island environment justified denial of a special exception. See *Lewis v. Dep't of Natural Resources*, 377 Md. 382, 429-31 (2003).

corner of Oxford and Hatherleigh Roads faces Oxford Road, is irreconcilably inconsistent with its decision that the Wilder home does not front on its address street, Murdock Road. See, e.g., *Aspen Hill Venture v. Montgomery County*, 265 Md. 303 (1972) (reaching opposite conclusion in substantively similar cases may constitute "arbitrary, capricious and discriminatory" decision). The Wilders respond that the *Milligan* decision "is completely distinguishable," as the Board recognized.

Ms. Milligan sought a variance for a 20' by 12' art studio that she built as an accessory structure. On corner lots such as Milligan's, such structures must be located in the rear third of the yard. See BCZR § 400.1. Milligan argued that she had complied with that requirement because her house fronted on Oxford Road, where her mail is addressed and delivered. Although the house has an enclosed porch with an exterior door on the Oxford Road side, the main entry door and driveway are on the Hatherleigh Road side, which is also the longer side of the house. Both the Stoneleigh Community Association and the Rodgers Forge Community Association opposed the variance, expressing concerns about its immediate and precedential impact for other corner lots.

A majority of the Board found "as a matter of fact that the Petitioner has offered convincing and substantial evidence that the accessory structure has been constructed in the rear third of the lot" as required. It cited "several reasons" as follows:

First the one and only address given to the subject site is 7116 Oxford Road. This side of the house has a sidewalk and an entrance into the main living quarters. **This is the address and entrance where the mail and other deliveries are directed.**

Secondly the plat shows clearly that **the setback from Oxford Road is 25 feet, a "front yard setback"** whereas the setback from the adjacent lot at 7112 and from Hatherleigh Road on the other side is a 10-foot "side yard" setback.

Thirdly, all services to the subject site including utility poles and lines come in from Hatherleigh Road. We find this to be typical of subdivisions that such services and **utilities are not placed in the front of the house.**

Finally the evidence and testimony presented is uncontradicted that from York Road into the subdivision all corner lot houses have entrances fronting on the intersecting side streets with driveways off Hatherleigh Road. **Only two houses, those of Ms. Milligan and Mr. Gill, also have entrances that face Hatherleigh.** As Mr. Gill, a Protestant, testified, having two entrances does cause some confusion.

Accepted by the Board as an expert in architecture and urban design, we found the testimony of Mr. Hill to be persuasive. Mr. Hill noted that "attractive facades" was typical of the design attributes when Stoneleigh was constructed

The majority did not find compelling the testimony of Mr. Thompson of PDM that his department determines the front of a property from its physical characteristics and using common sense. Similarly **Mr. Thompson produced no evidence to support his opinion that the subject property would be given an address on Hatherleigh Road if it were to be built today.**

We do not find the Board's decision in this case to be inconsistent with its decision in *Milligan*. Although both decisions concern corner lots, the Stoneleigh case involved a separate accessory structure for a single family home, rather than an addition to a townhouse end unit. Most importantly, in both cases, the Board cited the factors of mail and package delivery as evidence that supported its orientation decision. Similarly, in both cases, the Board relied on architectural expert opinion that it found persuasive.

One material difference between the decisions in *Milligan* and *Wilder* is that the 25' setback applicable to the Milligan house strongly supported the Board's conclusion that the house fronted on Oxford Road, whereas there is no evidence of a comparably "telltale" setback differential that could help identify the front and side yards of the Wilder home.⁷ The most significant distinction between the two residences is that the Milligan house has a commonly used path from the sidewalk to its Oxford Road door, which is used for mail and package delivery, whereas there is no path from Murdock Road to the Wilder townhome and only the

⁷The front and side yard setbacks for the Wilder home in Rodgers Forge are both ten feet. According to the Protestants, if the Wilder residence fronts on Murdock Road, as they contend it should, there would be no setback obstacle to an addition on the Pinehurst Road side, although Rodgers Forge homeowners "would probably object . . . from a covenant standpoint," based on Rodgers Forge covenants that "privately adjust and determine what could be done and what can't be done[.]" We have not been directed to any such covenants in the record before us.

Pinehurst Road door is used for entry, mail, and deliveries.⁸ In these circumstances, the Board's decision that the Wilder home fronts on Pinehurst Road is not inconsistent with its decision that the Milligan home fronts on Oxford Road.

**JUDGMENT AFFIRMED. COSTS TO BE
PAID BY APPELLANTS.**

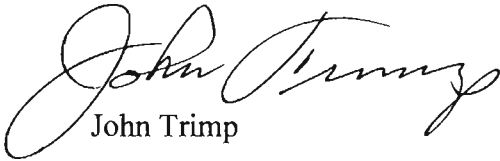
⁸Although the Board explicitly criticized the County zoning authority's reliance on physical characteristics of the property and "common sense" to justify the decision in *Milligan*, we regard this statement in context as merely disapproving the County's effort to use undefined "common sense" rather than duly enacted BCZR benchmarks such as setback distances.

September 4, 2007

To whom it may concern,

I am the resident at 401 Waveland Road, and my property backs up to the property on 400 Lee Drive. I have no problem with the esthetics of the structure. My family has owned the property at 401 Waveland for 47 years and we are not opposed in any way to the shed at 400 Lee Drive.

Sincerely,


John Trimp

PETITIONER' S

EXHIBIT NO. 5

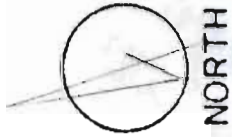
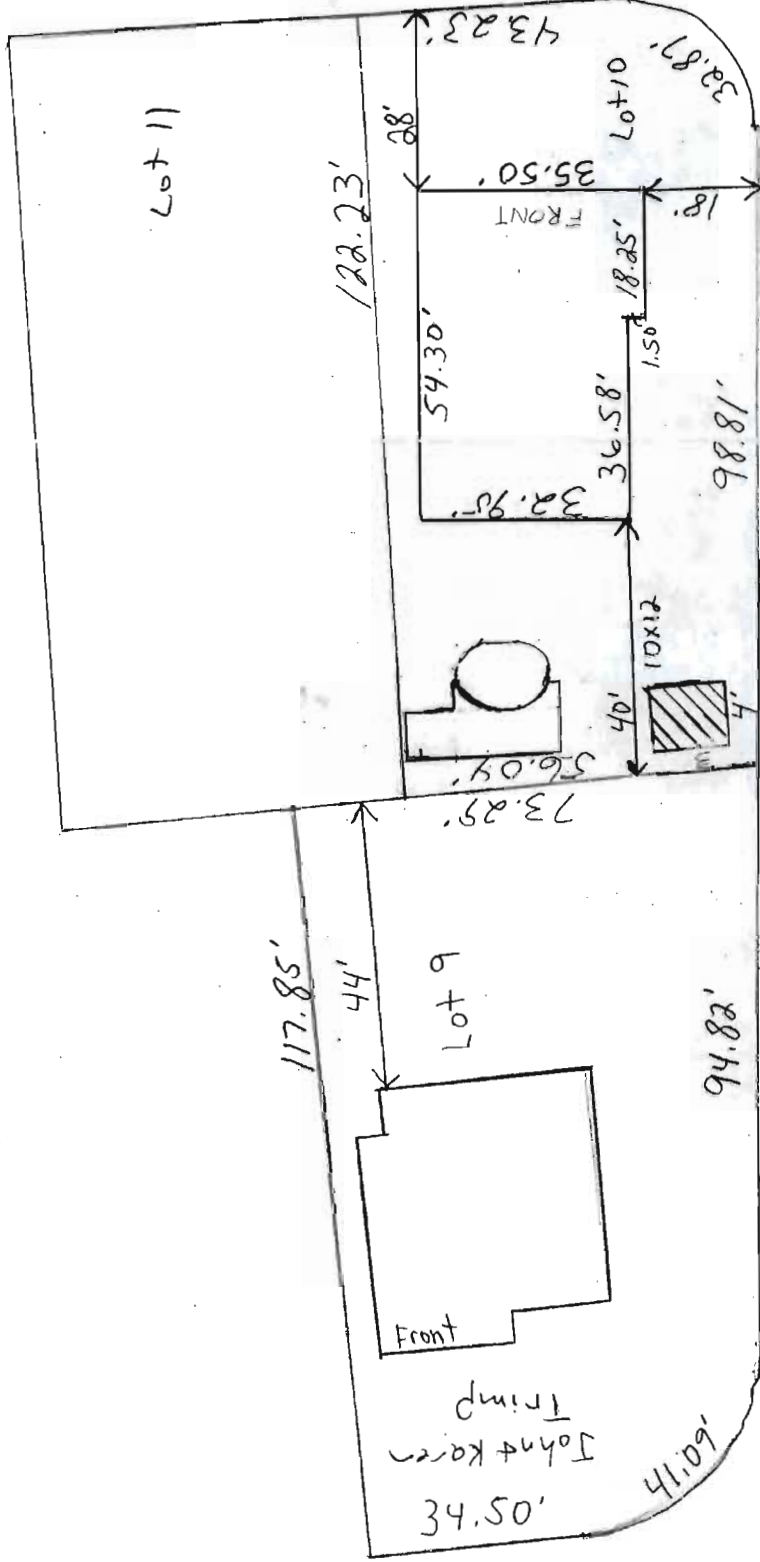
PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

PROPERTY ADDRESS 400 LEE DR SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME Colonial Gardens

PLAT BOOK # 18 FOLIO # 132 LOT # 10 SECTION # D

OWNER Salvatore & Doris GRASSO



PREPARED BY SCG

SCALE OF DRAWING: 1" = 30'

PETITIONER'S

EXHIBIT NO. 1



VICINITY MAP
SCALE: 1" = 1900'

LOCATION INFORMATION

ELECTION DISTRICT / 5+

COUNCILMANIC DISTRICT / 5+

1" = 200' SCALE MAP # 100C1

ZONING DR 5.5

LOT SIZE .15 ACRES 6,785.00 SQUARE FEET

SEWER ☒ PUBLIC ☒ PRIVATE ☐

WATER ☒ PUBLIC ☒ PRIVATE ☐

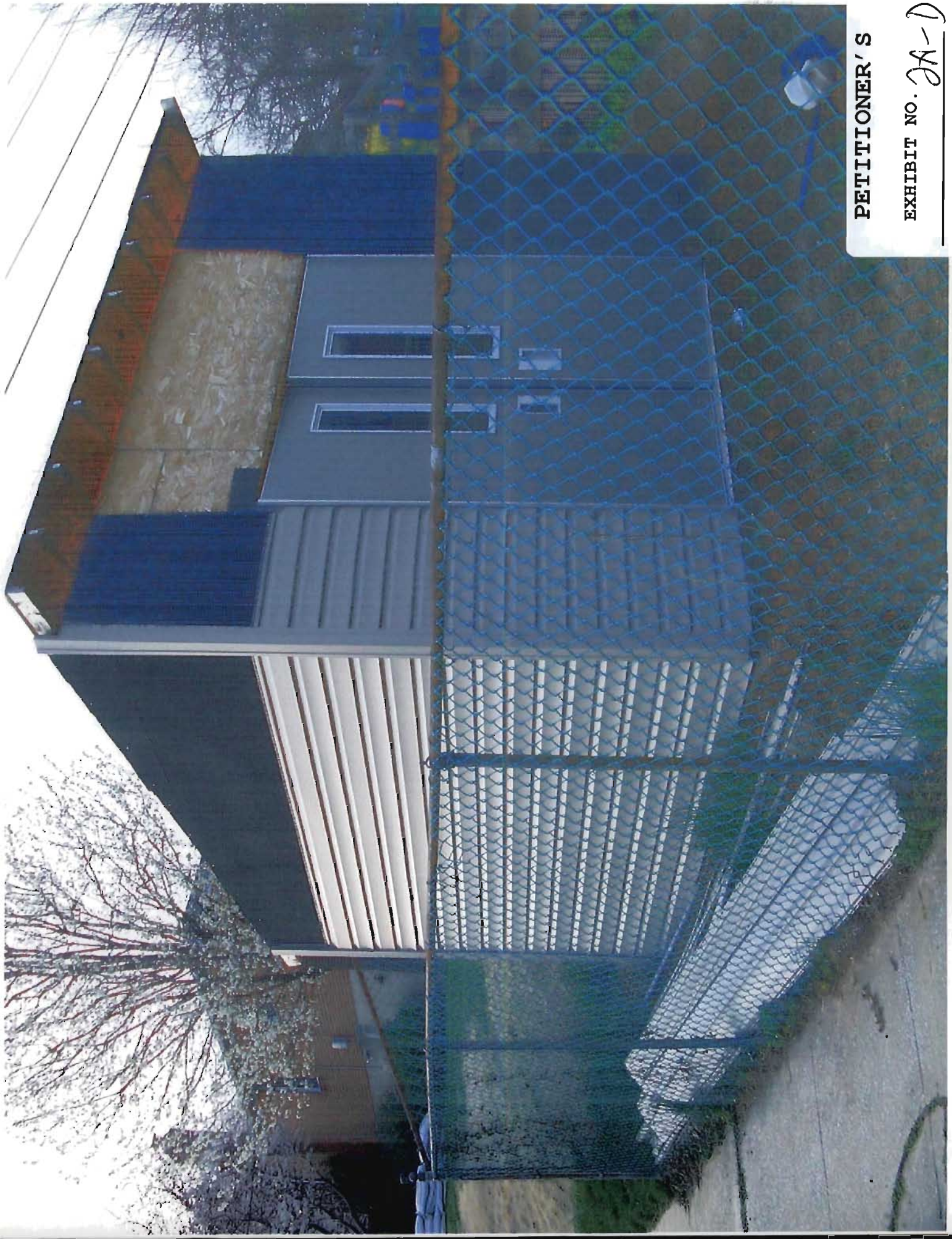
CHESAPEAKE BAY CRITICAL AREA YES ☐ NO ☒

100 YEAR FLOOD PLAIN YES ☐ NO ☒

HISTORIC PROPERTY / BUILDING YES ☐ NO ☒

PRIOR ZONING HEARING YES ☐ NO ☒

ZONING OFFICE USE ONLY
REVIEWED BY KRP ITEM # 08-354-A CASE # 08-354-A



PETITIONER'S

EXHIBIT NO. JA-D









PETITIONER'S

EXHIBIT NO. 3A-D





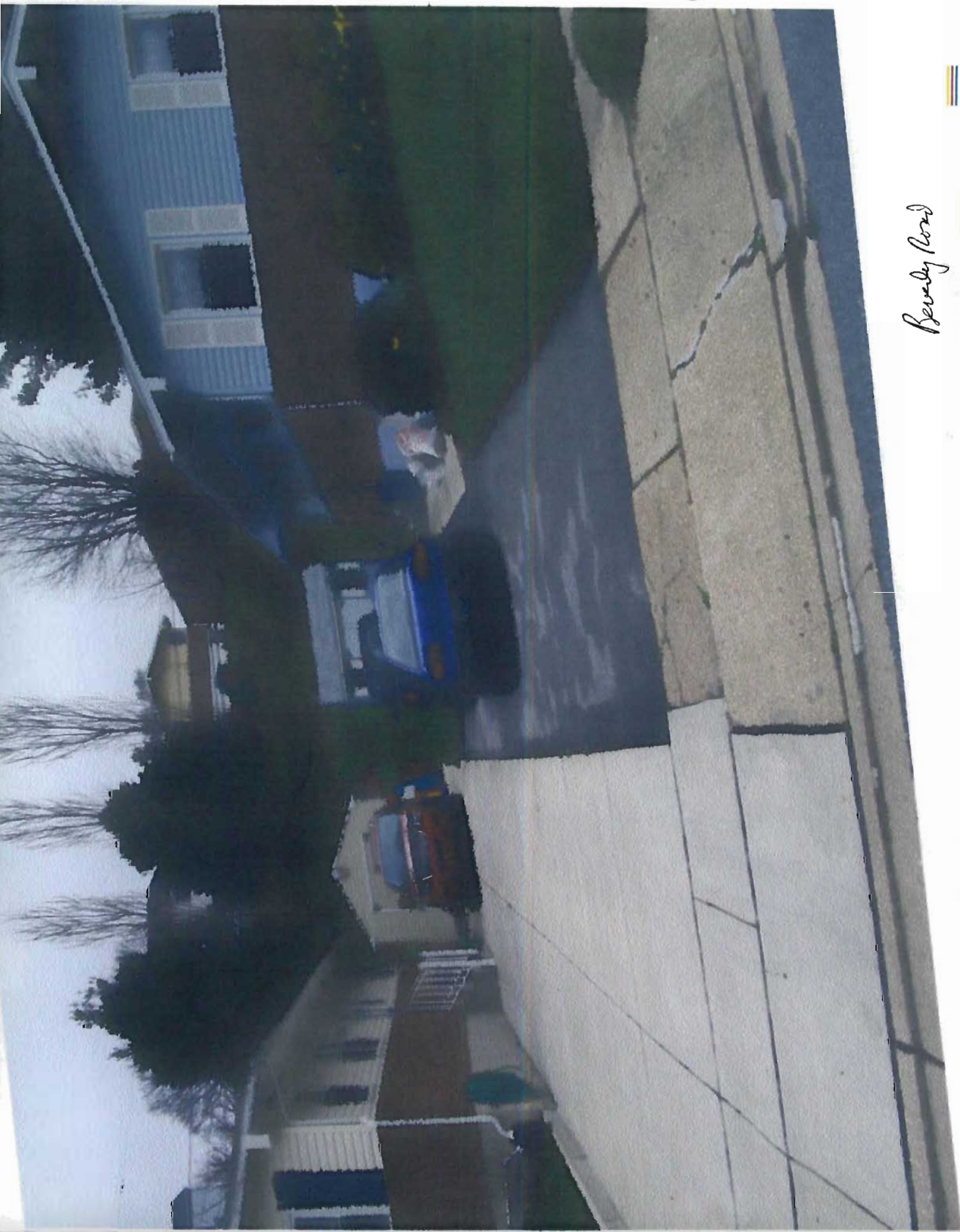




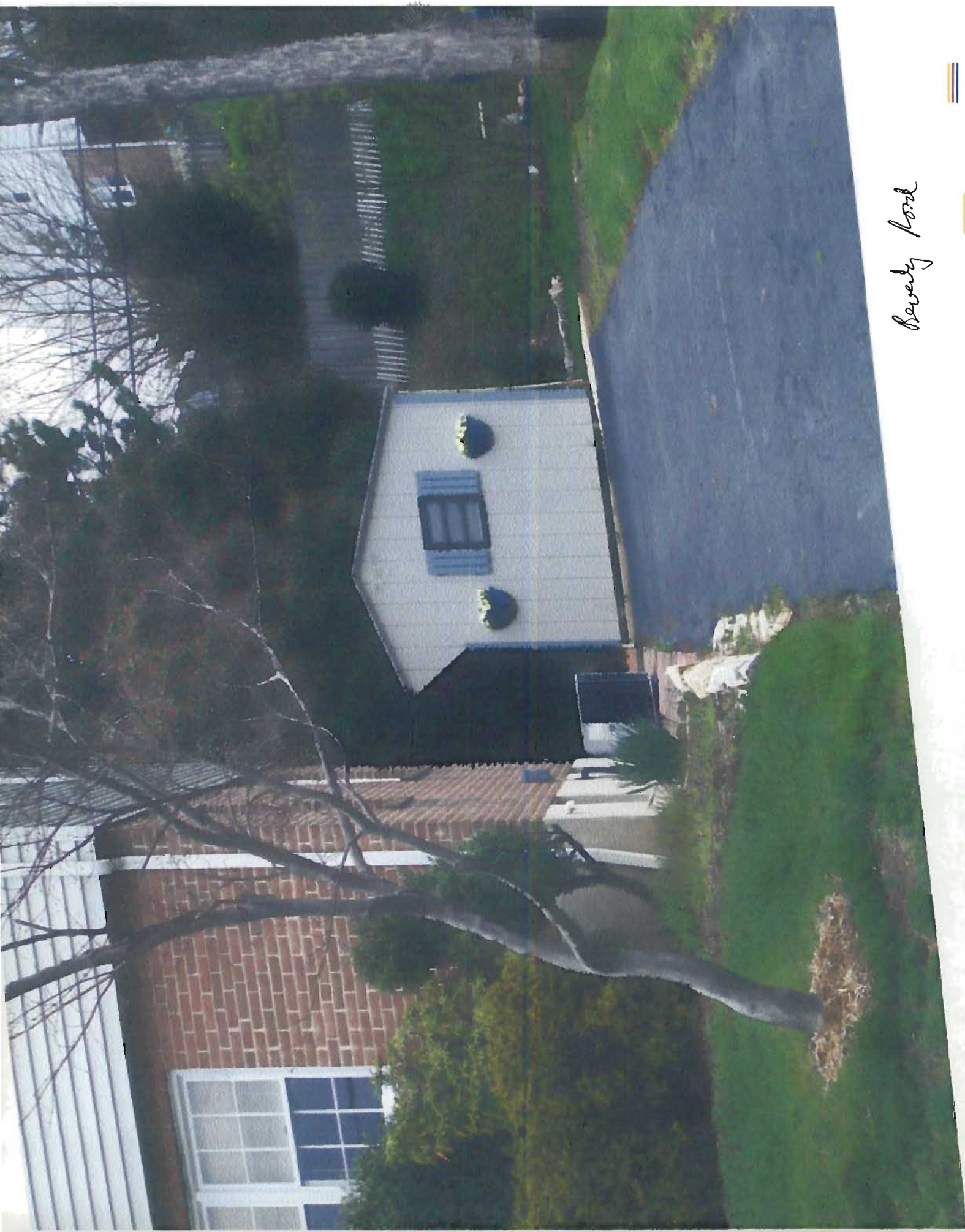
PETITIONER'S

EXHIBIT NO. 4A-E

Bradley Pond



Beverly Road



Beverly Pond



Beverly Ford

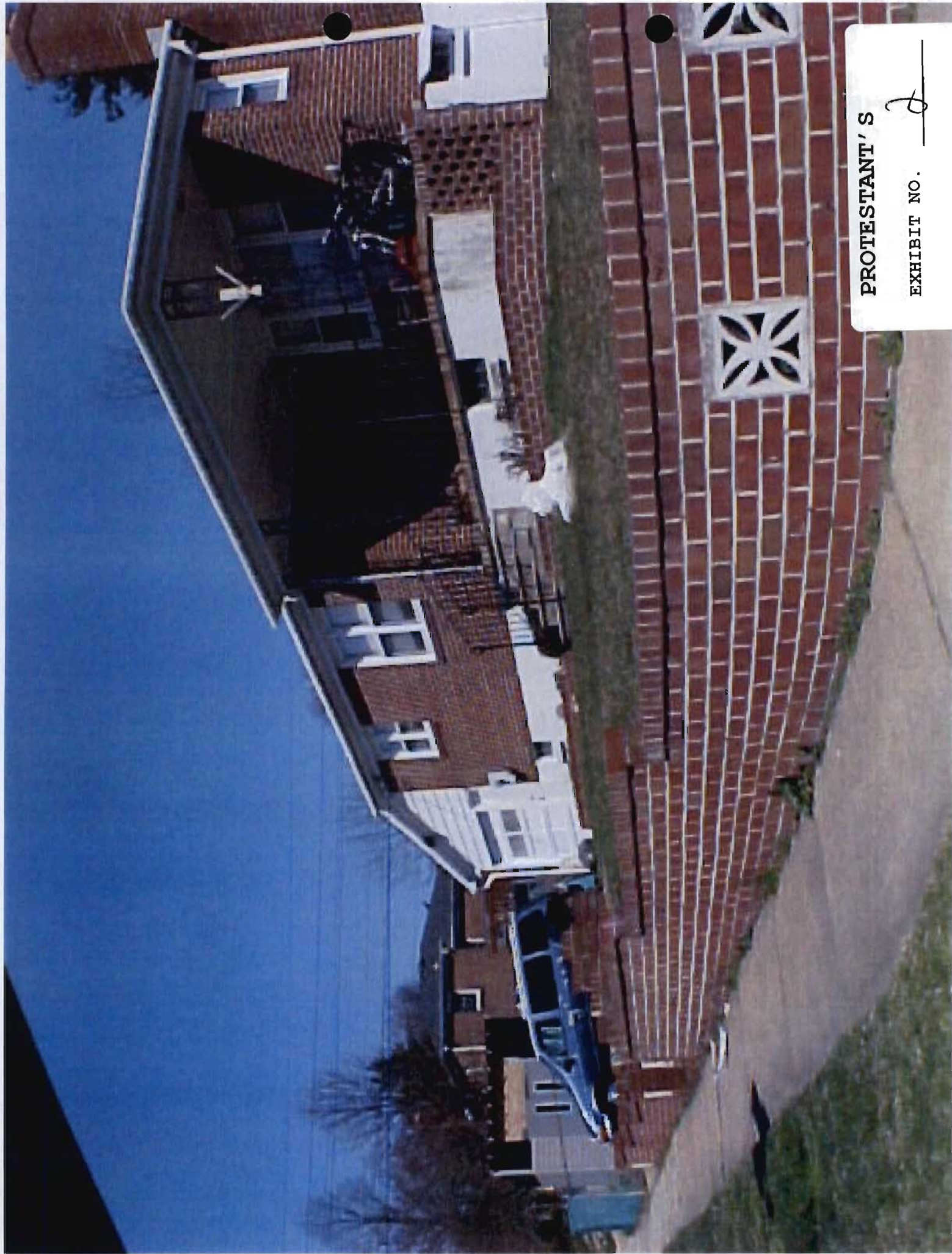


Beverly Pond



PROTESTANT'S
EXHIBIT NO. 1A+B





PROTESTANT'S

EXHIBIT NO.

2



PROTESTANT'S

EXHIBIT NO. 3



PROTESTANT' S

EXHIBIT NO. 4

Emails in opposition to the fixed structure at 400 Lee

David Grosscup ✓
Paul Mullen ✓
Larry and Donna Jordana and James Simmons ✓
James Denny ✓
Carol Molloy ✓
Lori Brennan ✓
Martha Lochary ✓
Ronald and Carol Evans ✓
Leslie and Adam Stark ✓
Bonnie and Jan Lowe ✓

Eleana Peterson

Leslie Hissem ✓

Alan Smith ✓

Barbara Kountz ✓

Kristen Stolz-Busch ✓

Virginia Reitz ✓

Ala Jean Cashour ✓

Kevin Mahoney ✓

18

22

Michael & Barbara Ernest ✓

Zanmoyas II (2)

20

27

PROTESTANT' S

EXHIBIT NO. 5



[Print](#) - [Close Window](#)

Date: Mon, 07 Apr 2008 19:22:53 -0700 (PDT)
From: "Alan Smith" <smi4thbigal@verizon.net>
Subject: Shed at 1930 Rockwell ave.
To: "Alan Smith" <smi4thbigal@verizon.net>

This shed and its location are an eyesore in our neighborhood. It is completely out of character with our neighborhood. I have lived here for 40 years.

Alan Smith
1927 Rockwell Ave.
Catonsville, MD 21228

Stanco, Denise

From: C. David Grosscup [djg7774g@verizon.net]
Sent: Thursday, April 03, 2008 2:46 PM
Subject: Fw: 400 Lee

----- Original Message -----

From: C. David Grosscup
To: Dave Grosscup
Sent: Thursday, April 03, 2008 2:44 PM
Subject: 400 Lee

To whom it may concern,

Regarding the (shed), erected at 400 Lee dr, I am in agreement with the Colonial Gardens Associations efforts to have it removed as an illegally erected structure. I wish no ill will on my neighbors at 400 Lee, but I feel that we must ALL abide by reasonable rules and ordinances that exist. They are there for a reason, and if we all ignored them, the neighborhood would be a mess. The laws are there for our benefit.

Thanks,
Dave Grosscup
314 Lee dr
Catonsville Md 21228

No virus found in this incoming message.

Checked by AVG.

Version: 7.5.519 / Virus Database: 269.22.5/1357 - Release Date: 4/3/2008 10:48 AM

Stanco, Denise

From: Mullen [mullen06@hotmail.com]
Sent: Wednesday, April 02, 2008 8:07 PM
To: Stanco, Denise
Subject: Shed on Rockwell Avenue

I find the shed on Rockwell Avenue to be a horrendous sight. Rockwell Avenue is one of the main roads through the community and to have a shed mind you, especially one built that way, in the front yard is terrible. I think it trashes up our community and brings down house values. I feel sorry for my fellow neighbors that have to look at it daily from across the street and the surrounding area, driving by on the way to and from my house is enough for me on a daily basis. I hope that something can be done to fix this problem and to keep it from happening again.

-Paul
A resident of Rockwell Avenue

Pack up or back up—use SkyDrive to transfer files or keep extra copies. Learn how.

From: ljordana2@aol.com (ljordana2@aol.com)
To: pookiehead88@yahoo.com
Date: Sunday, March 30, 2008 7:05:51 PM
Subject: Position for Zoning Hearing

Hi Denise,

Thanks for collecting these emails and petitions. Following is our position on the illegal structure (shed) and the action we would like the BA Co. Zoning Commission to take.

Donna

To: The Baltimore County Zoning and Code Enforcement

The illegal structure erected at 400 Lee aka 1930 Rockwell was constructed without The Colonial Gardens Improvement Association's permission and as such does not adhere to the guidelines for a proper structure to be placed on property in our neighborhood. The rules of the Association are not stringent and onerous, but are in place to guard against a structure such as this. As the BA Co. Zoning and Code Enforcement entity for Baltimore County, I ask that you enforce the law and require the owner to remove the structure promptly. Furthermore, I would ask that if the structure is not removed promptly, that the owner be required to pay the Association's legal costs associated with this issue.

Donna and Larry Jordana AND James A. Simmons, Sr. (permanent resident with us)
1934 Altavue Road
Catonsville, MD 21228
410-744-1031

Planning your summer road trip? Check out AOL Travel Guides.

From: Denny, Jim (Jim.Denny@ssa.gov)
To: pookiehead88@yahoo.com
Date: Wednesday, April 2, 2008 8:27:46 AM
Subject: Concern with Shed at Lee and Rockwell in Colonial Gardens

Baltimore County Zoning and Code Enforcement:

I wish to express my concern with the recent construction of a shed on a property at the corner of Rockwell and Lee Roads in Colonial Gardens.

The shed is now partially complete, lacking only its final coat of siding. It is located along the side of the property line, immediately adjacent to the sidewalk along Rockwell. One can almost reach out and touch it when walking along the sidewalk.

If the shed were to be re-positioned on the back property line at an interior location, it would probably be OK. However, in its current location, the rules of the Colonial Gardens Civic Association would almost certainly find this structure to be illegally located.

James B. Denny
407 Wrenleigh Drive
Colonial Gardens
Catonsville, MD 21228

From: Molloy, Carol (CMolloy@cbmove.com)
To: pookiehead88@yahoo.com
Date: Wednesday, April 2, 2008 1:40:17 PM
Subject: Shed at 1930 Rockwell Ave., 21228

Dear Commissioner:

In regards to the shed at above noted location it is truly an eyesore. If this homeowner needs this building then it should be relocated to the back of the subject property.

As far as this situation being considered for a variance, it is my understanding that a variance is granted when there is great need. I do not see a great need for such a structure.

Please, Sir, enforce our County zoning regulations and instead of granting a variance have this shed relocated to a more appropriate place on the property.

Thank you.

Carol S. Molloy
311 Waveland Road
Baltimore, MD 21228

From: lbrennan47@comcast.net (lbrennan47@comcast.net)
To: pookiehead88@yahoo.com
Date: Wednesday, April 2, 2008 2:41:03 PM
Subject: April 8th hearing

Dear Ms. Stanco,
Please take this letter to the Baltimore County Zoning & Code Enforcement hearing on April 8th.
Thanks for your efforts in getting rid of this shed and improving Colonial Gardens.

Lori Brennan

Baltimore County Zoning and Code Enforcement
To Whom It May Concern:

My name is Lori Brennan and I reside in Colonial Gardens, Catonsville, Baltimore County. There is an incomplete structure on the property of 400 Lee Drive (aka 1930 Rockwell) separate from the home. This structure has been partially complete for over a half year and sits in the corner of the property right next to the sidewalk on Rockwell Avenue. It is an eyesore and I believe it deters from the aesthetics of our community and brings down the property values of Colonial Gardens. The owners do not appear to have any interest in completing this "shed" and we are tired of walking and driving by this half complete and hastily put up building in the rear of their property. I feel they should be made to remove it and thus keep our community looking nice and respectable.
Thank you for acting upon my concerns.

Sincerely,

Lori J. Brennan
309 Galan Road
Catonsville, MD 21228

From: MLLochary@aol.com (MLLochary@aol.com)
To: smi4thbigal@verizonh.net
Date: Saturday, April 5, 2008 10:00:02 AM
Cc: pookiehead88@yahoo.com; nocinhouse@comcast.net
Subject: The Shed

April 5, 2008

Dear Sir:

Please add me to the list of those neighbors **extremely, extremely opposed** to the shed that has been erected on the corner of Rockwell and Lee Avenues in Colonial Gardens, Catonsville MD.

Unfortunately, I am unable to attend the hearing in Towson on April 8, 2008. Thank you for your work with the Colonial Gardens Improvement Association.

Sincerely,

Martha Lochary,
1919 Rockwell Ave.,
Catonsville MD 21228

Planning your summer road trip? Check out AOL Travel Guides.

Stanco, Denise

From: noclnhouse@comcast.net
Sent: Wednesday, March 26, 2008 11:40 AM
To: Stanco, Denise
Subject: FW: Shed Structure

----- Forwarded Message: -----

From: "Ronald Evans" <roncar03@comcast.net>
To: <noclnhouse@comcast.net>
Subject: Shed Structure

Date: Sat, 22 Mar 2008 18:52:31 +0000

To whom it may concern, Ronald & Carol Evans, 303 Lee Drive, Catonsville, MD. 21228 object to the illegal shed erected at the corner of Rockwell and Lee Drives and would like to see it be removed to conform to association standards.

Thank You, Ronald & Carol Evans

Stanco, Denise

From: noclnhouse@comcast.net
Sent: Wednesday, March 26, 2008 11:40 AM
To: Stanco, Denise
Subject: FW: 400 Lee Drive

----- Forwarded Message: -----

From: <lesliestark@verizon.net>
To: noclnhouse@comcast.net
Subject: 400 Lee Drive
Date: Mon, 24 Mar 2008 18:11:14 +0000

Hello Mary,

I am new to the neighborhood and I have to admit I noticed the shed at 400 Lee Dr. immediately. I thought, "This is a really neat and clean neighborhood except for the eye sore on the corner of Lee and Rockwell." I am very impressed with how everyone else takes pride in taking care of their property. I agree that the shed in question stands out and does not help the appearance of our community.

Leslie and Adam Stark
301 Lee Drive

Stanco, Denise

From: noclnhouse@comcast.net
Sent: Wednesday, March 26, 2008 11:39 AM
To: Stanco, Denise
Subject: FW: Structure in Colonial Gardens

----- Forwarded Message: -----
From: "bonnie921@netzero.net" <bonnie921@netzero.net>
To: noclnhouse@comcast.net
Cc: smi4thbigal@verizon.net
Subject: Structure in Colonial Gardens
Date: Wed, 26 Mar 2008 11:59:52 +0000

Baltimore Zoning & Code Enforcement,

We live in a wonderful community called Colonial Gardens in Baltimore County. Most of the homes are well taken care of - by young and old alike.

There are many people who are active in safeguarding our neighborhood. They are also reasonable people.

However, the structure and the yard in general at 400 Lee aka 1930 Rockwell really hasn't looked good for quite some time. It is an eye sore. We have codes in the community that we all try to follow.

Since we are unable to attend the scheduled 4/8 hearing, we would like to register our voice via this e-mail.

Thank you.

Bonnie & Jan Lowe

303 Waveland Road

Catonsville, MD 21228

We live in Colonial Gardens and are opposed to a variance for the illegal shed erected at the corner of Rockwell and Lee Drives. It should never have been put up and was done without a permit. We all work hard to keep our homes well kept in this neighborhood and most of us have respect for the zoning codes set up by the county. The codes are supposed to protect us from this type of blatant and deliberate infraction of the rules. When we moved to this community 8 years ago, we wanted to put up a 6 ft. wooden fence for our dogs. We live on a corner and the county code stated it was to be no taller than 4 ft. for the side yard (which is our back yard). A lot of people told us to go ahead and put up a higher one. They said if you put it up without a legal permit in Baltimore County, you are never forced to take it down and conform to the existing codes. It is never enforced. We chose to get the permit; and hope those people are not correct. The code should be enforced as stated and the current residents should be made to conform. It becomes a domino effect in that once one is allowed to deviate so dramatically, others will be allowed to follow. Thank you for your consideration.

Eleanor Peterson / Leslie Hissem

323 Gralan Rd.

Catonsville MD 21228

bc: Sam Moxley

Stanco, Denise

From: noclnhouse@comcast.net [noclnhouse@comcast.net]

Sent: Mon 4/7/2008 8:53 PM

To: Stanco, Denise

Cc:

Subject: FW: Illegal Shed

Attachments:

----- Forwarded Message: -----

From: Barbara Kountz <barbarakountz@yahoo.com>

To: noclnhouse@comcast.net

Subject: Illegal Shed

Date: Fri, 4 Apr 2008 14:53:04 +0000

Dear Ms. Sites:

I am writing to you in support of the enforcement action of the Colonial Gardens Improvements Association against the illegal structure that has been erected at the corner of Rockwell and Lee. The structure is large and extremely unsightly. It appears to have been constructed (and I use that term loosely) of various types of materials and does not belong in the community.

I fully support your actions to protect the integrity of the community. Thank you.

Barbara Kountz
404 Roanoke Drive
Baltimore, MD 21228

You rock. That's why Blockbuster's offering you [one month of Blockbuster Total Access](#), No Cost.

Stanco, Denise

From: noclnhouse@comcast.net [noclnhouse@comcast.net]
To: Stanco, Denise
Cc:
Subject: FW: Zoning and Code Enforcement - Colonial Gardens
Attachments:

Sent: Mon 4/7/2008 8:56 PM

----- Forwarded Message: -----

From: Kristan Busch <kristanbusch@yahoo.com>
To: Mary Sites <noclnhouse@comcast.net>
Subject: Zoning and Code Enforcement - Colonial Gardens
Date: Sat, 29 Mar 2008 02:15:34 +0000

Hello Mary,

I would like to express my support for pursuing action against the illegal structure (shed) that has been erected at the corner of Rockwell and Lee Drive (400 Lee Drive AKA 1930 Rockwell). This structure greatly offends me and my family; it is an embarrassment to the neighborhood.

Thank you for pursuing action against this structure.

Sincerely,
Kristan Stolze-Busch
310 Lee Drive
Catonsville, MD 21228

You rock. That's why Blockbuster's offering you one mon! th of B lockbuster Total Access, No Cost.
<http://tc.deals.yahoo.com/tc/blockbuster/text5.com>

Stanco, Denise

From: noclnhouse@comcast.net [noclnhouse@comcast.net]

Sent: Tue 4/8/2008 7:21 AM

To: Stanco, Denise

Cc:

Subject: SHED

Attachments:

Call from Mrs. Reitz:

Opposing shed structure on 1930 Rockwell Ave / 400 Lee . I can not make the meeting due to the death of my brother.

Please forward.

*Virginia Reitz
316 Waveland Rd
Catonsville , Md 21228
410-747-9449*

Thank You .

[Print - Close Window](#)

Date: Wed, 02 Apr 2008 17:35:22 -0400 (EDT)

From: Acashour@aol.com

Subject: Shed

To: smi4thbigal@verizon.net

I am writing to see that the structure located at Rockwell and Lee should be removed as it is an eyesore to a well kept community. I know I certainly would not want to look out my window to see that staring at me every day. It is almost like a one room house. Please add our names to the list of people that want to see the removed.

Sincerely, Al & Joan Cashour
305 Gralan Rd.

Planning your summer road trip? Check out [AOL Travel Guides](#).

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YAHOO!
MAIL ClassicWelcome, **smi4thbigal@veriz...** [Mail Home](#) [All-New Mail](#) [Tutorials](#) [Help](#)
[[Sign Out](#), [Member Center](#)]

Mail

Contacts

Calendar

Notepad

Mail For Mobile - Options

Check Mail

Compose

Search Mail

Search the Web

Folders [Add - Edit]

Inbox (4)

Draft

Sent

Bulk (4) [Empty]

Trash [Empty]

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Poker

Poker_Picks

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This message is not flagged. [[Flag Message](#) - [Mark as Unread](#)][Printable View](#)**Date:** Sun, 30 Mar 2008 15:02:30 -0400**From:** "kevin" <kevern1@comcast.net> [Add Mobile Alert](#)**Subject:** Illegal Structure corner Rockwell & Lee dr.**To:** smi4thbigal@verizon.net**CC:** pookiehead88@yahoo.com

Sirs,

With regard to the illegal structure constructed in Colonial Gardens @ 1930 Rockwell Ave (aka 400 Lee Dr.) Catonsville Maryland 21228 , I would like My voice heard on this matter!

1) According to the legal " Covenants" of this neighborhood, established some 50yrs ago , this structure is in blatant violation!

2) I have lived in this neighborhood for over 25 years and have strictly abided by these rules so as to keep the beauty and esthetics of the community up to Our standards.

3) I live within " constant view " of this (half built) structure and I am disturbed by its presence every day! ! ! !

4) This particular residence has been the focal point of numerous complaints
(ie: large trash objects, portable trailers being used and parked on property)
in Colonial Gardens for some years now.

I would like this zoning commission to enforce our legal rights and have this
Eye Sore Immediately REMOVED!!!

Respectfully yours,

Mr. & Mrs. Kevin P. Mahoney

address on attached page

3/31/2008

1929 Rockwell Ave
Colonial Gardens Home Owner
Catonsville Maryland 21228

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Michael & Barbara Ernest
2014 Rockwell Avenue
Catonsville, Maryland 21228-4218
Telephone: (410)-747-1437
e-mail: mveble61@verizon.net

March 6, 2008

Attention: Colonial Gardens Improvement Association (CGIA)

My wife and I are long time residents of this community and support the efforts of the CGIA aimed at ensuring the residents of this community abide by the County Codes and association covenants. In particular, we support your efforts at forcing the removal of the shed at the corner of Rockwell Avenue and Lee Drive. We assume from the fact the association is pursuing this matter through Baltimore County code enforcement that it is in fact a violation of the county code. But besides that it is clearly an eyesore and a detriment to the appearance of the community, and probably is in violation of the CGIA's covenants as well. This shed as well as other violations of our community covenants clearly set a bad precedent if not policed by the association and brought to the attention of the association and acted upon through appropriate channels.

Michael Vance Ernest, Sr. 3/6/08

Michael Vance Ernest, Sr.

Barbara L. Ernest

Barbara Lee Ernest

To whom it may concern,

I live four houses down on the opposite side of the street from 1930 Rockwell Ave. The property in general is an absolute mess and an eyesore. The owner started to build this homemade outhouse looking structure without checking with the Association first and not posting a permit. His side/backyard is very stuffed with big items. There are too many large items in that little yard. He has a large above ground pool. A deck on the pool he probably built without a permit, a swingset, and now this. The yard is full of toys, junk and trash. The porch and other side of the house that faces Lee Dr. is the same way. No matter what street you drive down, the house hits you right in the face. It is on the corner of two main streets going and coming into our community. The parents of the present owner always kept the yards clean and appealing. When the son took over the first thing that went up was a rebel flag and a nascar flag on the front lawn. They don't throw anything in the trash, it gets thrown on the ground and nothing gets put away. Now there is an old van sitting in the driveway that has not been moved. That will probable become a storage unit if it already hasn't. Please help us keep our nice, quiet, law abiding community like it has been for so many years.

Thank you from a family who pays their community dues and abides by the home owners association rules.

16

Colonial Gardens Petition
Regarding 400 Lee Drive (aka 1930 Rockwell)

We the undersigned are resident homeowners of the community of
Colonial Gardens.

The signatures below constitute our united disapproval of the
shed-like fixed structure at 400 Lee Drive as it is illegal in several
ways. We are requesting the structure be moved or removed. We
ask the Zoning Commissioner to grant our request and place a
deadline *with consequences*.

<u>NAME</u>	<u>STREET ADDRESS</u>
<u>Bernard Keller</u>	<u>1920 Drummond Rd.</u>
<u>Michael M. Quinn</u>	<u>1916 Rockwell Ave</u>
<u>Robert H. Lohfink</u>	<u>301 Waveland Road</u>
<u>Robert Kollesh</u>	<u>1921 Rockwell Ave</u>
<u>Mary Kollesh</u>	<u>1921 Rockwell Ave</u>
<u>Lexie Hise</u>	<u>323 Graham Rd.</u>
<u>Frances O. Peterson</u>	<u>323 Graham Rd</u>

Appt. 6

Colonial Gardens Petition
Regarding 400 Lee Drive (aka 1930 Rockwell)

We the undersigned are resident homeowners of the community of
Colonial Gardens.

The signatures below constitute our united disapproval of the
shed-like fixed structure at 400 Lee Drive as it is illegal in several
ways. We are requesting the structure be moved or *removed*. We
ask the Zoning Commissioner to grant our request and place a
deadline *with consequences*.

NAME

STREET ADDRESS

Michael ERNEST

2014 ROCKWELL AVE 21228

Laurie M. Smith

1932 BRUNNEN RD.

Joyce A. Lessell

410 Lee Drive 21228

Heather Bonney

318 Waveland Rd, 21228

[illegible]

Colonial Gardens Petition
Regarding 400 Lee Drive (aka 1930 Rockwell)

We the undersigned are resident homeowners of the community of
Colonial Gardens.

The signatures below constitute our united disapproval of the
shed-like fixed structure at 400 Lee Drive as it is illegal in several
ways. We are requesting the structure be moved or *removed*. We
ask the Zoning Commissioner grant our request and place a
deadline *with consequences*.

NAME

STREET ADDRESS

Manfred R. Walsmann

1929 ALTAVUE RD
CATONSVILLE, MD 21228

Denise Stancio

1922 Altavue

CASE 08-354A

PETITIONER'S EXHIBITS

1 5. W. PICTURE OF NEIGHBOR'S HOUSE

1 X n n n n

✓ ~~Y~~ n n n n

1 6. A. PICTURE OF BLUE HOUSE ON PLAT 4A

✓ B. n n n n n n n

1 C. n n n n n n 4B.

✓ D. n n n n n n n

1 E. n n n n n n n

1 F. n n n n n n n

PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

PROPERTY ADDRESS 400 LEE DR

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

SUBDIVISION NAME Colonial Gardens

PLAT BOOK # 18 FOLIO # 132 LOT # 10 SECTION # D

OWNER Salvatore & Doris Grasso



VICINITY MAP
SCALE: 1" = 1900'

LOCATION INFORMATION

ELECTION DISTRICT 1st

COUNCILMANIC DISTRICT 1st

1" = 200' SCALE MAP # 100C1

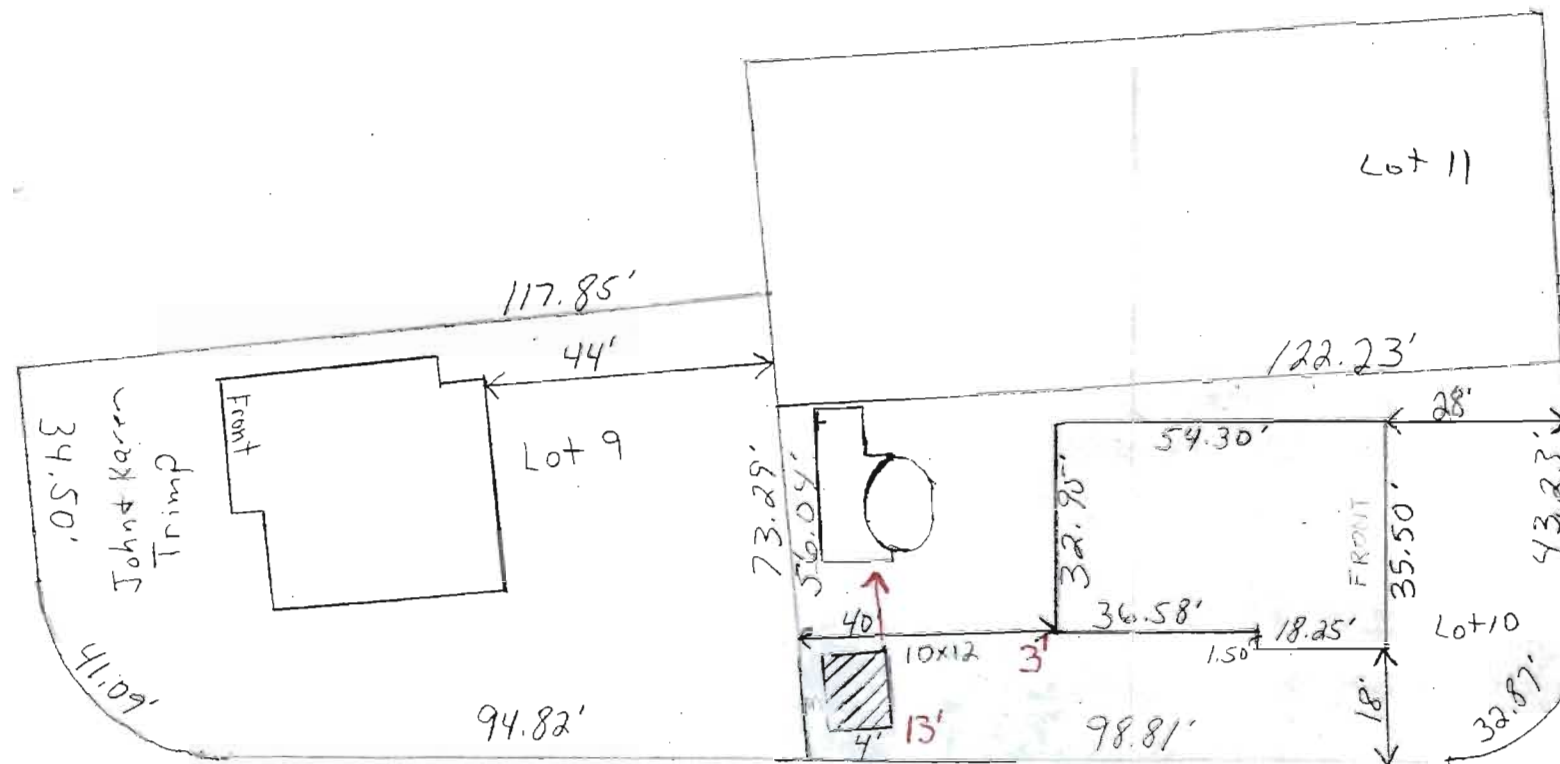
ZONING DR 5.5

LOT SIZE .15 ACRES 6,785.00 SQUARE FEET

	PUBLIC	PRIVATE
SEWER	☒	☐
WATER	☒	☐

	YES	NO
CHESAPEAKE BAY CRITICAL AREA	☐	☒
100 YEAR FLOOD PLAIN	☐	☒
HISTORIC PROPERTY/BUILDING	☐	☒
PRIOR ZONING HEARING		

ZONING OFFICE USE ONLY
REVIEWED BY _____ ITEM # _____ CASE # _____



NORTH

PREPARED BY SCG

SCALE OF DRAWING: 1" = 30'

CBA PET. EX No. 1

CBA

PG. 2A



CRA PET.
LB



ORA Pg. 3A



08A Pet. 3B



ABA
PET. 3C



ORA PET. 31



CBA PET. 5A



CBA PET. 5B



CBA Pet. SC



CBA Pet. 571



NOV 1987 SE



ORA Pet. 5F



CBA PET 56



CBA PET. 5H





CBA PET 51

CBA DET 55



CBA PET SK







C.B.B. Pet. 5M.



CRA PET 50



ORA PET. SP



CBA PET. SQ



CRA P-7.5R



00A PET. EX. 55.



ABA Pet. 51



03A PET. EX. SU



CPA REF. SV



CRAPESTW

STAVUE RD
OWELL CR





CBA PET SX



CBA PET 6A

6A



CBA PET- 66



NBA P57 6C



QBA PET. 61



Q BA PET. 6E



CBA Pet 6F

Pet. 6F



PROTESTANTS' EXHIBITS

- ✓ 1. RULE 8 (7 PAGES)
- ✓ 2. AERIAL PHOTO OF COLONIAL GARDENS CBA
- ✓ 3. A. PHOTO.
✓ B.
- ✓ C. " SHED & POOL
- ✓ D.
- ✓ E. " SIDE
- ✓ F. "
- ✓ 4. AERIAL PHOTO ROCKWELL & LEE DRIVE.
- ✓ 5. LETTERS FROM NEIGHBORS (2 PAGES) FROM WEBSITE
- ✓ 6. PETITION SIGNED BY NEIGHBORS (4 PAGES)
- ✓ 7. PETITION SIGNED BY NEIGHBORS (6 PAGES)

Colonial Gardens Improvement Association, Inc.

Treasurer's Report for General Meeting of November 25, 2008

Savings account: \$1,738.12

Checking account: 480.00*

Dues paid for 2008 by 119 residents.

*Several bills of unknown amount are yet to be presented.

Alan Smith
Treasurer

Colonial Gardens the subdivision consists
of 282 homes. Geographical limits are
N. Rolling to Old Frederick to Edmondson to N. Potting.
Nenise Stancio

CBA
Pro. Ex. No. 1

AFFIDAVIT

**STATE OF MARYLAND
BALTIMORE COUNTY, SS:**

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member
of the (Board of Directors) (Zoning Committee) of the
Colonial Gardens Improvement Association.



Colonial Gardens
Improvement Association
c/o Denise Stanco
1922 Altavue Rd.
Catonsville, MD 21228

ATTEST:

_____ Association

Leslie Hisseny
Secretary

Mary Zito
President

DATE: 12.10.08

AFFIDAVIT

**STATE OF MARYLAND
BALTIMORE COUNTY, SS:**

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member
of the (Board of Directors) (Zoning Committee) of the
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Colonial Gardens
Improvement Association
c/o Denise Stanco
1922 Altavue Rd.
Catonsville, MD 21228

ATTEST:

_____ Association

Leslie Hissom
Secretary

Mary Zito
President

DATE: 12.10.08

Colonial Gardens Improvement ASSOCIATION

RESOLVED: That at the November meeting of the Colonial Gardens Improvement Association held on November 25th 2008 [DATE], it was decided by the Association that responsibility for review and action on all zoning matters for the period January 1, 2008 - December 31, 2008 be placed in the (Board of Directors) (Zoning Committee) consisting of the following members, each of whom is hereby authorized to testify on behalf of the Association before the County Board of Appeals or other duly constituted zoning agency, body, or commission:

Mary Sites
Denise Stance

AS WITNESS OUR HANDS AND SEAL THIS 10th day of DECEMBER, 2008

ATTEST:

Colonial Gardens Imp. Association

Leslie Hissell
Secretary

Mary Sites
President

Colonial Gardens Improvement ASSOCIATION

RESOLVED: That at the November meeting of the Colonial Gardens Improvement Association held on November 25th 2008 [DATE], it was decided by the Association that responsibility for review and action on all zoning matters for the period January 1, 2008 - December 31, 2008 be placed in the (Board of Directors) (Zoning Committee) consisting of the following members, each of whom is hereby authorized to testify on behalf of the Association before the County Board of Appeals or other duly constituted zoning agency, body, or commission:

Mary Sites
Denise Stancie

AS WITNESS OUR HANDS AND SEAL THIS 10th day of DECEMBER, 2008

ATTEST:

Colonial Gardens Imp. Association

Leslie Hissery
Secretary

Mary Sites
President

Colonial Gardens Improvement ASSOCIATION

RESOLVED: That the position of the Colonial
Gardens Improvement Association as adopted by the (Board of Directors)
(Zoning Committee) on the zoning matter known as:

08-354-A

Doris & Salvatore Grasso, Petitioners / Appellants
400 Lee Drive

is that:

- The shed located at 400 Lee Drive, 21278 is improperly placed & not in accordance with Special Regulations, Section Article 4, Sections 400.1 - 400.3.
- The location of the shed is for convenience of the owner & not because of any difficulty involving the property.
- The location & architecture of the shed is not compatible with the look & feel of the neighborhood & is detrimental to property values.
- The variance should be denied.

AS WITNESS OUR HANDS AND SEAL THIS 10th day of
DECEMBER, 2008.

ATTEST:

Colonial Gardens Imp. Association

Healie Hissem

Secretary

Mary Dileo

President

Colonial Gardens Improvement ASSOCIATION

RESOLVED: That the position of the Colonial
Gardens Improvement Association as adopted by the (Board of Directors)
(Zoning Committee) on the zoning matter known as:

08-354-A

Doris & Salvatore Grasso, Petitioners / Appellants
400 Lee Drive

is that:

- The shed located at 400 Lee Drive, 21228 is improperly placed & not in accordance with Special Regulations, Section Article 4, Sections 400.1 - 400.3.

- The location of the shed is for convenience of the owner & not because of any difficulty involving the property.

- The location & architecture of the shed is not compatible with the look & feel of the neighborhood & is detrimental to property values.

- The variance should be denied

AS WITNESS OUR HANDS AND SEAL THIS 10th day of
DECEMBER, 2008.

ATTEST:

Colonial Gardens Imp. Association

Lexlie Hissam

Secretary

Mary Dileo

President

CBA PRO 3A



CBA
Plo 3B



- CBA
PRO. 3C



CBA
PRO. 3A

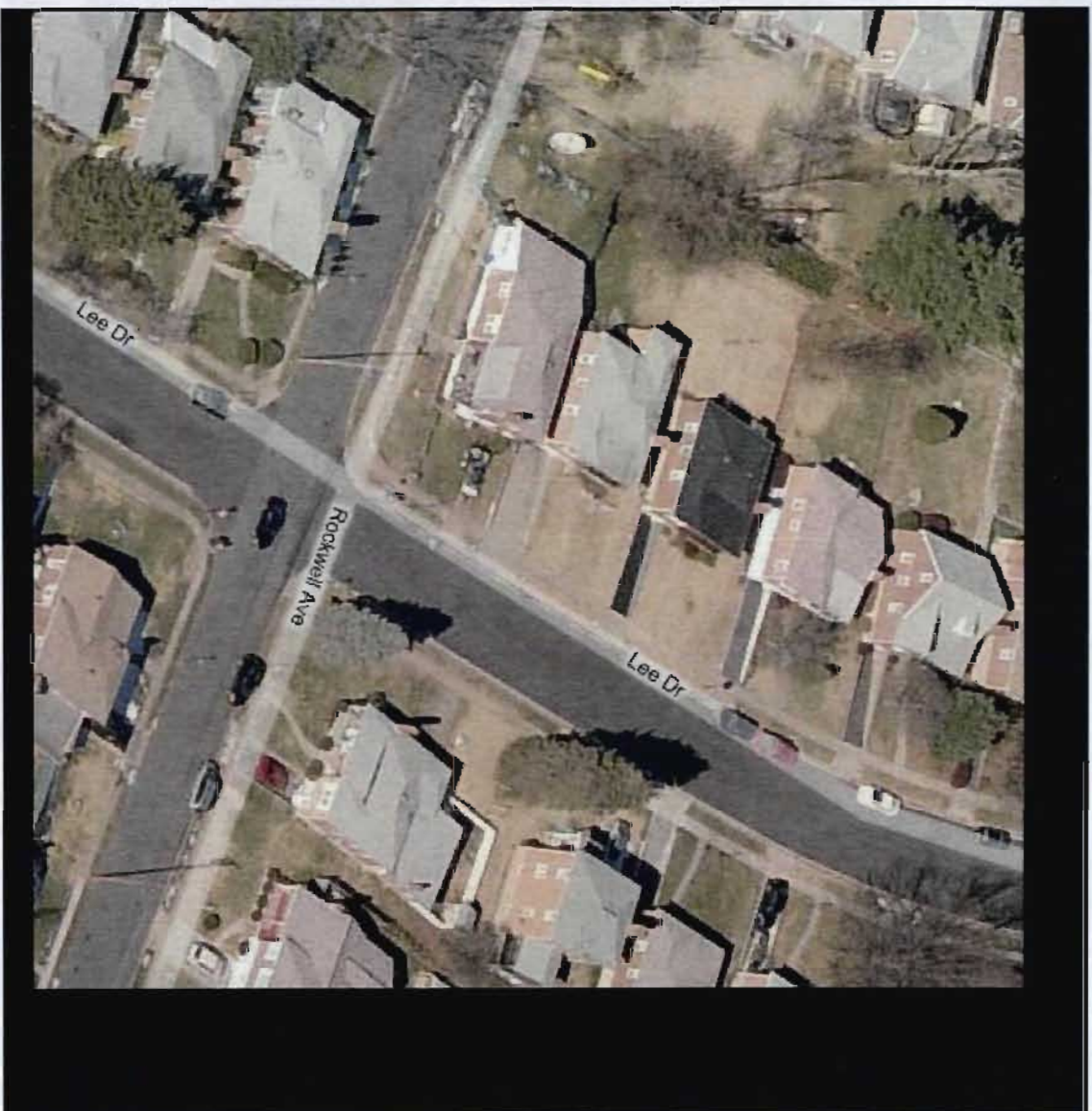




PLO. 3 F

CBA PLO 3 F





CRB
P.O. 5X 4

Sent: Thursday, July 19, 2007 8:56 PM

PRO EX 5

As a 23 yr resident of this association there has been many time I wanted to do certain things on my property, but could not because of the covenants I and most other residents abide by!!

I am referring to the illegal structure being erected on the corner of Rockwell Ave and Lee Dr. (in the front yard of this residence) violation!!!!!!!!!!!!!!!!!!!!!!

This is ruining the esthetics of the neighborhood not to mention house values!!

I am sure no permits were ever applied for from the association or BALTIMORE CO.

Something needs to be done before a very BAD precedent is set here!

Hi ,

I agree with you , I have already called Zoning , Building Permits and Code Enforcement. We have also sent a letter from the association to his home. Mr.Grasso showed up at the Vice Presidents home stating that Code Enforcement agreed he could put a shed on his property and that the neighbors were in agreement with his shed construction, I know of one neighbor that did agree with Mr. Grasso stating that the property does not bother him and he can see nothing wrong with the way it looks, We do not agree . I came down Rockwell the other day and the first thing I saw was construction of the shed. We will do everything we can to get this fixed , Zoning is coming on the 31st because he was cited for trash and debris already from our complaints .

This is something we are going to stay on and fight, I believe this property has gotten way to far out of hand. I will also call the County Council man's office and have them help us with this, we are going to need all the help we ca! n get.

I will let you know something as soon as I find out. Thank You for being such a wonderful community member. Mary

Mary,

First , thanks for such a fast reply. I guess Mr. Grasso does not understand that these Covenants are LAW on record with the county since the dedication of this subdivision in 1953.

The verbal " O.K." from 1 or 2 neighbors does NOT constitute a majority needed to change or waive a article in our covenants, this is also LAW.

I have lived in Catonsville all of 58 yrs and remember when this subdivision as under construction but my parents could not afford to live here. I always dreamed of getting into this neighborhood because it still is one of the " Last " few sections in Catonsville that has ALWAYS stayed nice and safe. People are real estate lists waiting to but in here, but if we were to allow this to get out of hand that would not last for long. Once again thanks for looking into this.

Kevin Mahoney
1929 Rockwell Ave

I agree 100% . I lived on Westchester when I was a child and moved back into this area . My main goal is to keep this community one of the best in Catonsville . With the grants and dedication from our members we will continue to work towards keeping the community a place everyone wants to call home. We will stay on this and let you know how it progresses. Mary

CRA PRO. EX NO. 5

From our website

Enforcement - not for all (anonymous user from our website)

I agree. I've lived in this neighborhood almost 20 years, and this corner has always been an eyesore. From the failed attempt to put a beauty salon in the garage to the current debauchery, it's been fodder for more than one kvetching session around the community. Why are they allowed to get away with it? I opine that they can get away with it because the homeowners association has no real power and these homeowners know it.

I Agree -- (another anonymous user)

Hopefully someone has looked into this by now to find out if the necessary permits, etc. have been obtained. However, this yard is a real eyesore to our community, even without the new structure being built. I hope that someone in the Association can speak to those living there about trying to clean up their yard. Thanks!

Code enf - property on Rockwell

The issue with the shed and this property has been brought to the attention of the Association by many residents. This issue is past the covenants and now rests in the hands of Baltimore County Code Enforcement. The shed is clearly a violation, even though the resident had been instructed by both the president and vice-president on several occasions to check with Baltimore County before construction. This is in the process of Civil Citation, Code Variance (which we will deny), and a variety of other BC sections. Denise Stanco, Vice President, CGIA.

Shed issue not done yet (Denise Stanco -- VP)

Please do not lose hope in the Association's diligence in getting the proper conclusion to this shed issue. Even though there are residents that do not mind the current placement of the shed, the shed is a violation where it stands. Sheds have to be built along the rear fence line, not the street side. Although we realize that a complete shed would have allowed the home owner to place eyesore items inside, he simply cannot do it where the shed now sits. This issue is not over, as the home owner now has to apply for a variance and have the property posted. We realize this is a long drawn out process, made more so by the failure of the home owner to comply with repeated requests of the Baltimore County zoning board. We will keep you posted on the status. We will need the community's help to deny the violation at the time of the hearing.

.....

Colonial Gardens Petition
Regarding 400 Lee Drive (aka 1930 Rockwell)

We the undersigned are resident homeowners of the community of Colonial Gardens.

The signatures below constitute our united disapproval of the shed-like fixed structure at 400 Lee Drive as it is illegal in several ways. We are requesting the structure be moved or removed. We ask the Zoning Commissioner to grant our request and place a deadline *with consequences*.

<u>NAME</u>	<u>STREET ADDRESS</u>
Beverly Kelley	1920 Drummond Rd.
Michael M. Quinn	1916 Rockwell Ave
Robert H. Lohfink	301 Waveland Road
Robert Kolleck	1921 ROCKWELL Ave
Mary Kolleck	1921 Rockwell Ave
Leslie Hissen	323 Graham Rd
Frances C. Robinson	323 Graham Rd

Colonial Gardens Petition
Regarding 400 Lee Drive (aka 1930 Rockwell)

We the undersigned are resident homeowners of the community of
Colonial Gardens.

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shed-like fixed structure at 400 Lee Drive as it is illegal in several
ways. We are requesting the structure be moved or removed. We
ask the Zoning Commissioner to grant our request and place a
deadline *with consequences*.

NAME

STREET ADDRESS

Michael ERNEST

2014 Rockwell Ave 21228

Louise M. Smith

1922 Drummond Rd.

Joyce A. Lencell

410 Lee Drive 21228

Heather Bonney

318 Waveland Rd, 21228

Colonial Gardens Petition

Regarding 400 Lee Drive (aka 1930 Rockwell)

We the undersigned are resident homeowners of the community of Colonial Gardens.

The signatures below constitute our united disapproval of the shed-like fixed structure at 400 Lee Drive as it is illegal in several ways. We are requesting the structure be moved or *removed*. We ask the Zoning Commissioner to grant our request and place a deadline *with consequences*.

NAME _____

STREET ADDRESS

DAVID BOARMAN

300 LEE DRIVE

Shayna Dale

1925 Rockwell Ave

Lee Doll

1925 Rockwell Ave

Colonial Gardens Petition
Regarding 400 Lee Drive (aka 1930 Rockwell)

We the undersigned are resident homeowners of the community of
Colonial Gardens.

The signatures below constitute our united disapproval of the
shed-like fixed structure at 400 Lee Drive as it is illegal in several
ways. We are requesting the structure be moved or *removed*. We
ask the Zoning Commissioner grant our request and place a
deadline *with consequences*.

NAME

STREET ADDRESS

Manfred R. Walsman

1929 ALTAVUE RD
CATONSVILLE, MD 21228

Denise Stance

1922 Altavue

Colonial Gardens Improvement Association
Petition regarding 400 Lee Drive (aka 1930 Rockwell)

We need your support!

We the undersigned are resident homeowners of the community of
Colonial Gardens, Catonsville, MD 21228

The signatures below constitute our united disapproval of the shed-like
fixed structure at 400 Lee Drive as it is illegal in several ways. We are
requesting the structure be moved or removed. We ask the Board of
Appeals to grant our request and place a deadline *with consequences*.

Submitted on this date: 12.10.08

Printed Name	Street Address	Signature
1. ALAN J. SMITH	1927 Rockwell Ave.	alan J. Smith
2. Shayna Doll	1925 Rockwell Ave	Shayna M. Doll
3. Lee Doll	1925 Rockwell Ave	Lee A. Doll
4. Virginia Muller	1923 Rockwell Ave	Virginia Muller
5. MARY S. KOLLECK	1921 Rockwell Ave	Mary S. Kolleck
6. BARRY KOLLECK	1921 Rockwell Ave	Barry Kolleck
7. MARTHA LOCHARY	1919 Rockwell Ave	Martina Lochary
8. JOHN HENN	1913 ROCKWELL AVE.	John Henn
9. Margaret Henn	" " "	Margaret Henn
10. ROSEN THOMPSON	1911 ROCKWELL AVE.	THOMPSON
11. Renata O'Reilly	1920 Rockwell	Renata O'Reilly
12. KEVIN P. MAHONEY	1929 ROCKWELL AVE	Kevin P. Mahony
13. ERNESTINE MAHONEY	1929 Rockwell Ave	Ernestine Mahoney
14. NALLEN O'Reilly	1920 Rockwell Ave	Nallen O'Reilly
15. DENISE STANCO	1922 ACTAVUE RD	Denise Stanco

Colonial Gardens Improvement Association
Petition regarding 400 Lee Drive (aka 1930 Rockwell)

We need your support!

We the undersigned are resident homeowners of the community of
Colonial Gardens, Catonsville, MD 21228

The signatures below constitute our united disapproval of the shed-like
fixed structure at 400 Lee Drive as it is illegal in several ways. We are
requesting the structure be moved or *removed*. We ask the Board of
Appeals to grant our request and place a deadline *with consequences*.

Submitted on this date: 12.10.08

Printed Name	Street Address	Signature
1.	WARREN E. SCHULTZ, 2016 Rockwell Ave.,	Warren E. Schultz
2.		
3.		
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15.		

**Try this one - petition**

Monday, September 15, 2008 11:06 AM

From: "Stanco, Denise" <Denise.Stanco@ssa.gov>

To: smi4thbigal@verizon.net

Colonial Gardens Improvement Association
Petition regarding 400 Lee Drive (aka 1930 Rockwell)

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We are requesting the structure be moved or removed. We ask the
Board of Appeals to grant our request and place a deadline *with*
consequences.

Submitted on this date: 12.10.08

Printed Name	Street Address	Signature
1. Mary Sites	1926 Dummard Rd	
2. Leslie Hissom	323 Graham Rd	
3. ELEANOR S. PETERSON Eleanor S. Peterson	323 Graham Rd	
4. Lois A. Pilachowski	409 Bralan Rd	
5. Jane Callanan	2026 Edmondson Ave	
6. Tiffany Howell	1941 Htavue Rd	
7. Ashley Mollen	2008 Rockwell Ave	
8. ROBERT E. LAWSON	1922 ROCKWELL AVE.	
9.		

Colonial Gardens Improvement Association
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requesting the structure be moved or removed. We ask the Board of
Appeals to grant our request and place a deadline *with consequences*.

Submitted on this date: 12.10.08

Printed Name	Street Address	Signature
1. Terry Burk	307 Waveland Rd.	Terry Burk
2. Therese Alagna	309 Waveland Rd.	Therese Alagna
3. Bonnie & JAN Lowe	303 WAVELAND RD	Bonnie Lowe
4. MARY Dookey	310 WAVELAND Rd	BATTO, MD
5. Nancy Short	305 Waveland Road	Nancy Short
6. Robert Lohrfink	301 Waveland Road	Robert H. Lohrfink
7. Lori Brennan	309 Gralan Road	Lori Brennan
8. Dave Weidow	327 Waveland Rd.	Dave Weidow
9. CYNDE BOYCE	311 WAVELAND RD	CYNDE BOYCE
10. JOE GILLMAN	304 Waveland Rd	Joseph Gillman
11. John Burk	307 Waveland Rd	John Burk
12. DAVE Alagna	309 Waveland Rd	Dave Alagna
13. Sharon Sapp	315 Waveland Rd	Sharon Sapp
14. Christina Gillman	304 Waveland Rd.	Christina R. Gillman
15.		

Colonial Gardens Improvement Association
Petition regarding 400 Lee Drive (aka 1930 Rockwell)

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requesting the structure be moved or removed. We ask the Board of
Appeals to grant our request and place a deadline *with consequences*.

Submitted on this date: 12.10.08

Printed Name	Street Address	Signature
1. Paul Mullen	2008 Rockwell Ave	Paul Mullen
2. Joseph Belensky	2007 Rockwell Ave	Joseph Belensky
3. Rick Jones	2010 Rockwell Ave	Rick Jones
4. Barbara Ernst	2014 Rockwell Ave.	Barbara Ernst
5. Edie Paken	2018 Rockwell Ave	Edie Paken
6. Bee Wolcott	2019 Rockwell Ave	Bee Wolcott
7. Jean M. Opalski	2011 Rockwell Ave	Jean M. Opalski
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Colonial Gardens Improvement Association
Petition regarding 400 Lee Drive (aka 1930 Rockwell)

We need your support!

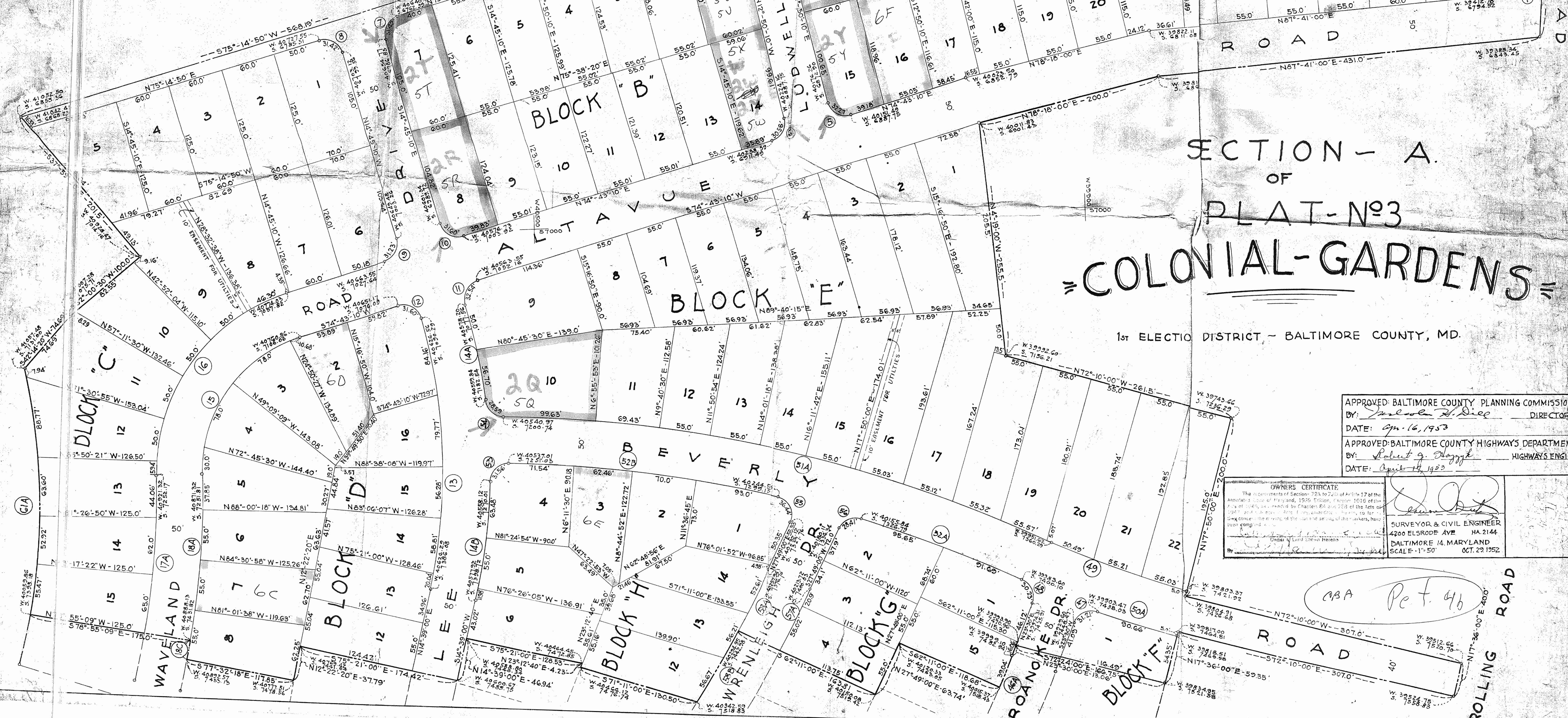
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Submitted on this date: 12.10.08

Printed Name	Street Address	Signature
1. Manfred R. Walsman	1929 Altavue	Manfred R. Walsman
2. Amin Issa	1927 Altavue	Amin Issa
3. Kelechi Aghahowa	1919 Altavue	Kelechi Ugo Aghahowa
4. John Curran	1906 ALTAVUE RD	John Curran
5. Stephen Yang	1918 ALTAVUE	Stephen Yang
6. Leonard Kern	1930 Altavue Rd	Leonard Kern
7. Donna Jordana	1934 Altavue Rd	Donna Jordana
8. Betty Martin	1937 Altavue Rd	Betty Martin
9. Karl Buerger	1935 Altavue Rd	Karl Buerger
10. Bill Mohrman	1933 Altavue Rd	Bill Mohrman
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No.	Δ	US	TAN	ARC	CHORD	BEARING
1	81°57'00"	10	17.31	28.61	26.23	N46°42'30"E
2	101°25'10"	10	27.24	31.50	32.24	N47°58'35"W
3	20°00'00"	10	20.00	31.42	28.28	N32°09'50"E
4	20°00'00"	10	20.00	31.42	28.28	N57°50'10"W
5	22°26'40"	10	20.87	32.27	28.88	N59°03'30"W
6	81°33'20"	10	19.16	30.56	27.68	N30°56'30"E
7	90°00'00"	10	20.00	31.42	28.28	N30°14'50"E
8	90°00'00"	10	20.00	31.42	28.28	N59°46'10"W
9	85°28'20"	10	19.82	31.23	28.15	N29°59'00"E
10	20°31'40"	10	20.18	31.60	28.41	N60°01'00"W
11	85°28'20"	10	20.18	31.60	28.41	N60°01'00"W
12	20°31'40"	10	20.18	31.60	28.41	N60°01'00"W
13	23°24'10"	10	152.20	292.06	295.19	N00°03'05"W
14	09°39'45"	10	11	106.10	106.98	N09°55'20"W
15	11°48'47"	10	11	130.46	130.23	N08°44'36"E
16	15°07'30"	10	115.36	136.68	182.89	N37°03'25"E
17	15°07'30"	10	153.81	262.24	243.85	N37°03'25"E
18	11°29'11"	25	85.82	171.06	170.77	N05°20'15"E
19	11°29'11"	25	90.84	181.08	180.78	N05°20'15"E
20	01°22'51"	25	10.89	21.77	21.77	N11°46'16"E
21	02°14'31"	70	19.52	39.04	32.04	N24°37'15"E
22	89°24'28"	00	1	31.21	28.14	N68°12'14"E
23	86°36'48"	30	1	30.23	27.44	N13°48'24"W
24	09°27'30"	25	160.73	160.55	160.55	N61°25'36"W
25	05°04'28"	65	1	20.66	20.63	N62°37'46"W
26	24°18'29"	00	1	615.17	610.57	N74°51'05"W
27	17°40'01"	00	1	187.34	187.20	N66°56'49"W
28	12°09'18"	00	1	297.00	296.44	N80°39'31"W
29	00°25'37"	00	1	31.56	28.39	N48°03'02"E
30	81°54'53"	00	1	28.59	26.22	N46°02'54"W
31	102°23'52"	00	1	36.44	31.17	N23°22'56"W
32	61°24'11"	00	1	28.41	26.08	N68°31'06"E
33	02°38'10"	21	37.97	75.92	75.92	N29°08'05"E
34	02°43'07"	21	37.97	75.92	75.92	N29°08'05"E
35	03°12'25"	21	44.80	89.56	89.56	N32°08'20"E
36	21°08'24"	25	135.89	268.70	267.17	N00°30'36"E



G.L.B. No. 18 Folio 131

FILED FOR RECORD

DATE APR 25 1953

FILED

George E. Byerly

CLERK

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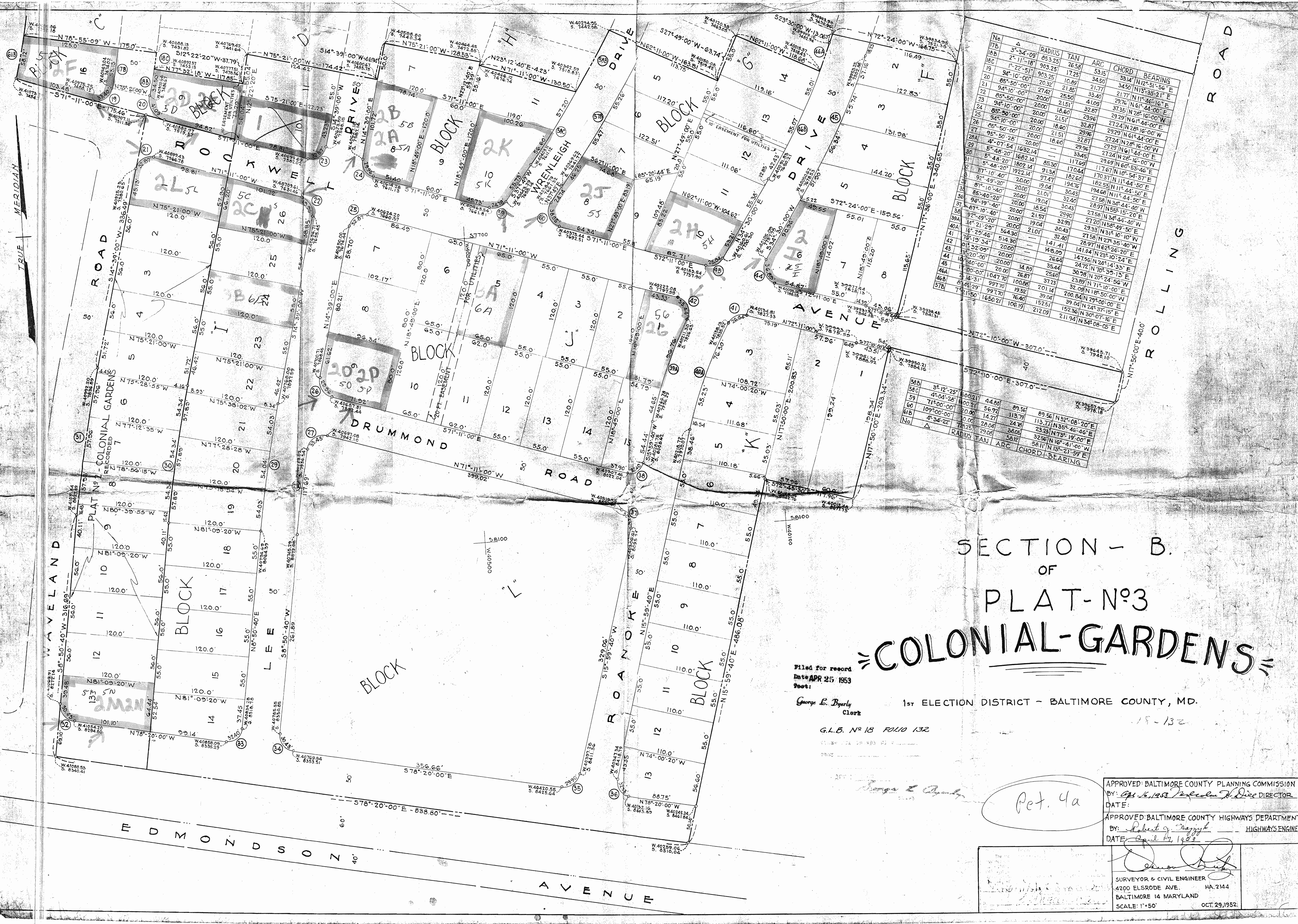
FILED

George E. Byerly

CLERK

FILED FOR RECORD

DATE APR 25 1953



SECTION - B.
OF
PLAT-N-3
"COLONIAL-GARDENS"

Filed for record
Date APR 25 1953
Foot:
George E. Byerly
Clerk
G.L.B. No 18 FOLIO 132

1st ELECTION DISTRICT - BALTIMORE COUNTY, MD.

APPROVED: BALTIMORE COUNTY PLANNING COMMISSION
BY: *Carl H. 1953* *William H. Dies* DIRECTOR
DATE:
APPROVED: BALTIMORE COUNTY HIGHWAYS DEPARTMENT
BY: *Robert G. Napp* HIGHWAYS ENGINEER
DATE: *April 14, 1953*

Pet. 4a
SURVEYOR & CIVIL ENGINEER
4200 ELSRODE AVE. HA. 2144
BALTIMORE 14 MARYLAND
SCALE: 1"=50' OCT. 29, 1952.

