

IN RE: **PETITIONS FOR VARIANCE**

W/S New Avenue, 247' & 293' S c/line of
Bond Avenue

(306 & 308 New Avenue)

4th Election District

3rd Council District

Mary A. Beard & Edie E. Beard

Petitioners

*

BEFORE THE

*

ZONING COMMISSIONER

*

OF

*

BALTIMORE COUNTY

*

Case Nos. **08-392-A & 08-393-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Variance filed by Mary A. Beard, and her sister, Edie E. Beard, for two (2) adjacent properties known as 306 and 308 New Avenue. Since the properties are owned by related family members and are located adjacent to one another, the two cases were heard contemporaneously. In Case No. 08-392-A (306 New Avenue), the Petitioner, Mary A. Beard, as originally filed, requests variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a lot width of 45 feet for proposed Lot 1, in lieu of the required 70 feet. In Case No. 08-393-A (308 New Avenue), Petitioner, Edie E. Beard, requests similar relief. Specifically, relief is requested from B.C.Z.R. Section 1B02.3.C.1 to permit a lot width of 51 feet for proposed Lot 2, in lieu of the minimum required lot width of 70 feet. At the outset of the hearing, however, Petitioners amended their petitions asking to include the approval of the subject properties as undersized lots, pursuant to Section 304 of the B.C.Z.R. The subject properties and requested relief are more particularly described on the site plan submitted in each case, which were accepted into evidence and respectively marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the requests were Mary A. and Edie E. Beard, property owners, Joseph L. Larson, a principal with Spellman, Larson &

ORDER RECEIVED FOR FILING

Date 4-28-08

By [Signature]

Associates, Inc., the consultants who prepared the site plans. There were no Protestants or other interested persons present. It is noted that I received confirmation from the adjoining and adjacent property owner, Edith Hawkins, indicating that she does not oppose Petitioners' requested zoning relief.

An appreciation of the properties past history and use is relevant and is briefly outlined. The Petitioner, Mary A. Beard, filed a petition for special hearing and variance in Case No. 07-025-SPHA requesting a determination that the subject lots had not merged and to permit a lot width of 44 feet and other setbacks. By his Order, Deputy Zoning Commissioner John V. Murphy denied the relief requested on September 7, 2006 finding in part that the Petitioner's father, John O. Beard, who held the lots under common ownership prior to his death on September 18, 2003, had merged the lots as that doctrine is discussed in the seminal case of *Remes v. Montgomery County*, 387 Md. 52 (2005). He instructed the Petitioner on the need to establish an internal common lot line between the lots from which new construction can be varied through the resubdivision process.

The Petitioners now come with this new approach as they are processing the minor subdivision (Case No. 06-132M) and seek the relief as set forth above to permit development of the property with a new one-story single-family dwelling on proposed Lot 1 as shown on Petitioners' Exhibit 1.

Testimony and evidence offered revealed that the subject adjacent parcels are located on the west side of New Avenue (aka Wolfe Avenue) south of Bond Avenue in Reisterstown. The lots are identified as Lots 13 and 14 on the plat of subdivision of the Jacob W. Wolfe property, which is an older subdivision that was platted and recorded in the Land Records prior to 1945, thus prior to the first set of zoning regulations in Baltimore County. As is often the case with

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older subdivisions, many of the lots are undersized and do not meet current area and width requirements. In this regard, each of the subject lots contains a gross area of over 10,000 square feet (Lot 13 – proposed Lot 1 will be 45'6" wide x 225' deep and contain 10,125 square feet; Lot 14 – proposed Lot 2 will be 51.6' wide x 220' deep and contain 11,267 square feet), more or less, zoned D.R.3.5. John O. Beard had owned both lots since March 29, 1950. Following his death, the Petitioners acquired ownership under his will and planned to improve the lots with new single-family dwellings in which they will reside. Testimony indicated that these new dwellings will meet all front, side and rear setback requirements. Relief is requested to approve lot widths of 45 feet and 51 feet respectively and to approve the properties as undersized lots (width at building line less than that required by the area regulations) to permit the proposed development. Photographs and real property data search records obtained from the Maryland Department of Assessments and Taxation illustrate the pattern of development and show that the subject properties and surrounding community were built on 48-foot wide lots which is also confirmed by the Office of Planning in its Zoning Advisory Committee (ZAC) comment. Thus, it appears with the resubdivision applied for in December 2006 pending only the approval of the instant petitions the relief requested is appropriate and consistent with the neighborhood. Testimony offered in support of the requests was that without variance relief, the lots could not be developed. Obviously, strict compliance with the regulations would create a hardship as the zoning regulations result in a denial of a reasonable and sufficient use of the properties (*See Belvoir Farms v. North* 355 Md. 259 [1999]). Moreover, based on the testimony and evidence presented, the Petitioners are entitled to their variances as they have met the requirements of Section 304 of the B.C.Z.R. (*See Mueller v. People's Counsel for Baltimore County* 177 Md. App. 43 [2007]). In my view, the relief requested will not result in any detriment to the health,

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Date 4-28-08
By [signature]

safety and general welfare of the surrounding locale and, therefore, would meet the spirit and intent of Section 307 for relief to be granted. The proposed dwellings will meet all front, side and rear setback requirements and will be situated on the lots consistent with other houses in the community. The only deficiency in both of these instances is the lot width, which is approximately 20 feet shy of the required 70 feet.

Pursuant to the resubdivision of the property, the advertisement, posting of the properties and public hearing on these Petitions held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 28th day of April 2008, that the Petition for Variance filed in Case No. 08-392-A, seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed buildable lot with a width of 45 feet in lieu of the minimum required 70 feet, and approval of the subject property (Lot 1) as an undersized lot, pursuant to Section 304 of the B.C.Z.R., for a proposed dwelling to be known as 306 New Avenue, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Variance filed in Case No. 08-393-A seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed buildable lot with a width of 51 feet, in lieu of the minimum required 70 feet, and approval of the subject property (Lot 2) as an undersized lot, pursuant to Section 304 of the B.C.Z.R., for a proposed dwelling to be known as 308 New Avenue, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED subject to the following conditions:

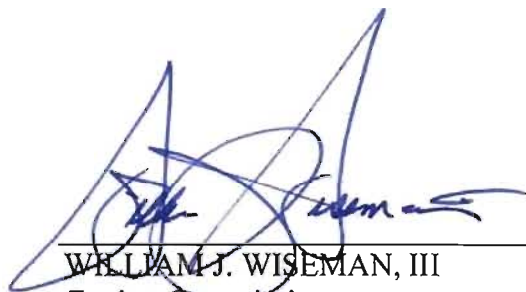
1. ADVISORY: This Order allows lot widths of 45 and 51 feet respectively for the creation of proposed Lots 1 and 2 but does not address the proposed resubdivision. The Petitioners resubdivision proposal to create the proposed Lots

COPY RECEIVED FOR FILING
Date 4-28-08
By [Signature]

1 and 2 must be submitted to the Development Review Committee for consideration and completion.

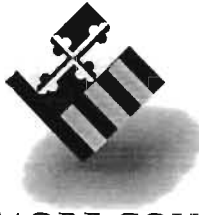
2. Prior to the issuance of any permits, the Petitioner(s) shall submit building elevation drawings of the proposed dwelling(s) to the Office of Planning for review and approval to ensure that the proposed house is compatible with existing homes in the area. Said elevations and architectural drawings shall include the detached garage, if any, and show parking on the side or the rear of the lot.
3. The Petitioner(s) may apply for her building permit and be granted same upon receipt of this Order; however, Petitioner(s) are hereby made aware that proceeding at this time is at their own risk until the thirty (30) day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

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



WILLIAM J. WISEMAN, III
Zoning Commissioner
of Baltimore County

ORDER RECEIVED FOR FILING
Date 4-28-08
By [Signature]



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

April 28, 2008

Joseph L. Larson
Spellman, Larson & Associates, Inc.
222 Bosley Avenue, Suite B-3
Towson, Maryland 21204

RE: PETITIONS FOR VARIANCE

W/S New Avenue, 247' & 293' S c/line of Bond Avenue
(306 & 308 New Avenue)
4th Election District - 3rd Council District
Mary A. Beard & Edie E. Beard – Petitioners
Case Nos. 08-392-A & 08-393-A

Dear Mr. Larson:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Variance have been granted with conditions, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: Mary A. Beard & Edie E. Beard, 306 New Avenue, Reisterstown, MD 21136
People's Counsel; Development Review Committee; Office of Planning; File



2008-0392-A

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 306 New Avenue
which is presently zoned DR 3.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

SEE ATTACHED SHEET

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

Complete testimony will be provided at the Zoning Hearing explaining the reasons for the Variance.

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 NA
Signature NA
Address NA Telephone No. NA
City NA State NA Zip Code NA

Attorney For Petitioner:

Name - Type or Print _____
Signature _____
Company _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Legal Owner(s):

Mary Beard
Name - Type or Print _____
Signature Mary A. Beard
Name - Type or Print _____
Signature _____
306 New Avenue 410-833-2146
Address Telephone No.
Reisterstown MD 21136
City State Zip Code

Representative to be Contacted:

Joseph L. Larson
Name _____
222 Bosley Ave. Ste. B-3 410-823-3535
Address Telephone No.
Towson MD 21204
City State Zip Code

OFFICE USE ONLY

Case No. 08-392-A

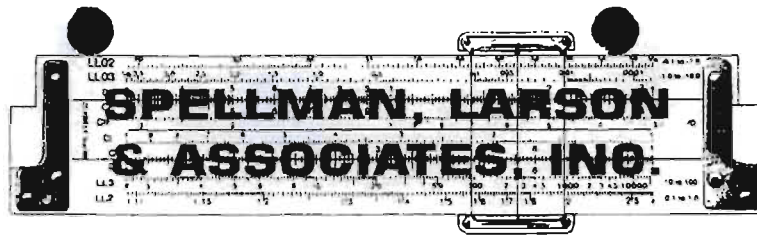
ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING

Reviewed By Bu Date 2/25/08

306 NEW AVENUE
Variance from Section 1 B02.3.C.1 of the BCZR

To allow a lot width of 45' for Proposed Lot No. 1 in lieu of the required 70'.



ROBERT E. SPELLMAN, P.L.S.
JOSEPH L. LARSON

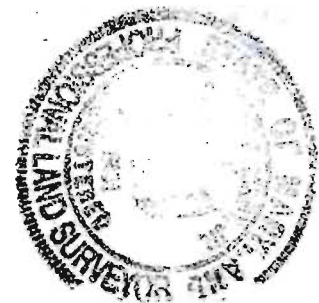
CIVIL ENGINEERS AND LAND SURVEYORS
222 BOSLEY AVENUE, SUITE B-3
TOWSON, MARYLAND 21204
TEL (410) 823-3535 / FAX (410) 825-5215

**LEGAL DESCRIPTION TO ACCOMPANY ZONING PETITION
306 NEW AVENUE-PROPOSED LOT NO. 1
4TH ELECTION DISTRICT
BALTIMORE COUNTY**

BEGINNING for the same at a point on the west side of New Avenue (Wolf Avenue) said point being 247 feet more or less southerly from the center line of Bond Avenue and continuing along the west side of New Avenue south 6 degrees 38 minutes 39 seconds west 46.00 feet to a point on the west side of New Avenue and thence continuing for a line of division north 89 degrees 48 minutes 39 seconds west 220.87 feet thence continuing north 00 degrees 12 minutes 39 seconds east 45.60 feet to a point on the division line between lots 13 and 12 as shown on the Plat of Subdivision of the Jacob W. Wolf Property and continuing for a line of division south 89 degrees 48 minutes 39 seconds east 225.00 feet to the place of beginning.

SAID property also being known as Lot No. 13 & part of Lot No.14 on the Plat of Subdivision of the Jacob W. Wolf Property recorded among the Land Records of Baltimore County in Plat Book 7, Folio 79 and containing 0.23 acres of land more or less.

February 4, 2008



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/neighbor 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: 28 - 392 - A

Petitioner: Mary Beard

Address or Location: 306 New Avenue

PLEASE FORWARD ADVERTISING BILL TO:

Name: Mary Beard

Address: 306 New Avenue

Reisterstown MD 21136

Telephone Number: 410 - 833 - 2146

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. 11129

Date: 2/25/08

PAID RECEIPT

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	0006			6150				\$65.00
Total:								\$65.00

Rec
From:

For:

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**

Item # 392

**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: #08-392-A
306 New Avenue
W/side of New Avenue, 247
feet south centerline of
Bond Avenue
4th Election District
3rd Councilmanic District
Legal Owner: Mary Beard
Variance: to allow a lot
width of 45 feet for Pro-
posed Lot No. 1 in lieu of
the required 70 feet.
Hearing: Friday, April 18,
2008 at 9:00 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 accommodations
Please Contact the
Zoning Commissioner's Of-
fice at (410) 887-3868.

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

4/008 Apr. 3 168877

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each of 1 successive weeks, the first publication appearing
on 4/3, 2008.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

J. Wilkinson

LEGAL ADVERTISING

Certificate of Posting

RE: Case NO. 08-392-A

Petitioner/Developer _____

Mary Beard

Date of Hearing/Closing 4/18/08

Baltimore County
Department of Permits and Development Managements
County Office Building – Room 111
111 W. Chesapeake Ave.
Towson, Md. 21204

Attention:

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

306 New Ave,

The sign(s) were posted on 4/3/08
(Month, Day, Year)

Sincerely,

 4/3/08

(Signature of sign Poster and date)

Richard E. Hoffman

(Printed Name)

904 Dellwood Drive

(Address)

Fallston, Md. 21047

(City, State, Zip Code)

410-879-3122

(Telephone Number)

See Attached
Photograph

Certificate of Posting
Photograph Attachment

Re: 08-392-A

Petitioner/Developer: _____

Mary Beard

Date of Hearing/Closing: 4/18/08



306 New Ave.

Posting Date: 4/3/08



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

March 1, 2008
TIMOTHY KOTROCO, Director
Department of Permits and
Development Management

NOTICE OF ZONING HEARING

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

CASE NUMBER: 08-392-A

306 New Avenue

W/side of New Avenue, 247 feet south centerline of Bond Avenue

4th Election District – 3rd Councilmanic District

Legal Owner: Mary Beard

Variance to allow a lot width of 45 feet for Proposed Lot No. 1 in lieu of the required 70 feet.

Hearing: Friday, April 18, 2008 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Mary Beard, 306 New Avenue, Reisterstown 21136
Joseph Larson, 222 Bosley Avenue, Ste. B-3, Towson 21204

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, APRIL 3, 2008.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, April 3, 2008 Issue - Jeffersonian

Please forward billing to:
Mary Beard
306 New Avenue
Reisterstown, MD 21136

410-833-2146

NOTICE OF ZONING HEARING

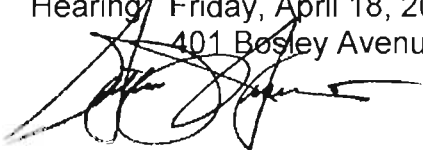
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 08-392-A

306 New Avenue
W/side of New Avenue, 247 feet south centerline of Bond Avenue
4th Election District – 3rd Councilmanic District
Legal Owner: Mary Beard

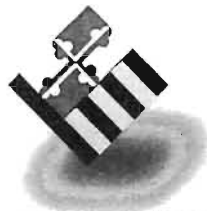
Variance to allow a lot width of 45 feet for Proposed Lot No. 1 in lieu of the required 70 feet.

Hearing: Friday, April 18, 2008 at 9:00 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.



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 9, 2008

Mary Beard
306 New Avenue
Reisterstown, MD 21136

Dear Ms. Beard:

RE: Case Number: 08-392-A, 306 New Avenue

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on February 25, 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
Joseph L. Larson 222 Bosley Avenue, Suite B-3 Towson 21204



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

State Highway
Administration

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

Maryland Department of Transportation

Date: MARCH 4, 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. 8-392-A
306 NEW AVENUE
BEARD 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. 8-392-A.

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

Very truly yours,

Foster 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

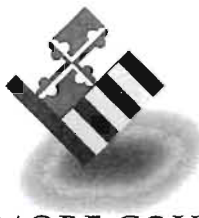
DATE: March 5, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For March 10, 2008
Item Nos. 08-377, 384, 387, 388,
389, 390, 391, 392, 393, 394, 395, 396,
397, and 398

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-03052008.doc



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
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

March 10, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: March 3, 2008

Item Number: 377,384,385,386,387,388,389,390,391,392,393,395,396,397,398,399

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

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

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

cc: File

BW 4118
9 + 10 AM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: February 1, 2008

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

RECEIVED
APR 02 2008

SUBJECT: 306 New Avenue

INFORMATION:

Item Number: 8-392 and 8-393

Petitioner: Mary Beard (8-392) and Edie Beard (8-393)

Zoning: DR 3.5

Requested Action: Variance

BY:

The petitioner requests a variance from Section 1B02.3.C.1 of the BCZR, to allow a lot width of 45 feet in lieu of the required 70 feet.

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not object to the requested variance to allow a lot width of 45 feet in lieu of the required 70 feet, since this is an older community with similar types of smaller narrower lots. This property was subject to a special hearing and variance 07-025, both were denied.

Within the zoning order the zoning commissioner directed that the subdivision process separate the lots. Subdivision was applied for in December of 2006 and is still pending approval.

The last set of comments on the minor subdivision from October 2007 stated that the applicant must petition for variance and or setback deficiencies and be granted for the same prior to approval by this office.

The following comment must be addresses prior to approval:

- Submit building elevations and architectures with a detached garage if any and parking on the side or the rear of the lot.

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

Reviewed by:

Division Chief:
AFK/LL: CM

RE: PETITION FOR VARIANCE
306 New Cut Road; W/S New Avenue,
247' S c/line of Bond Avenue
4th Election & 3rd Councilmanic Districts
Legal Owner(s): Mary Beard
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* 08-392-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.

RECEIVED

MAR 11 2008

Per _____

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

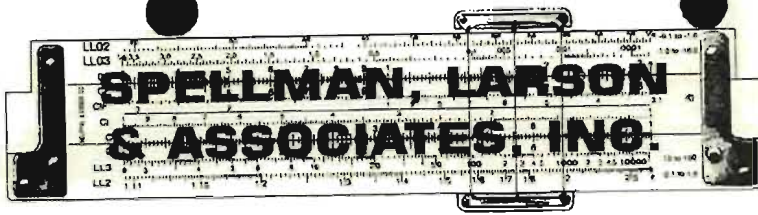
CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of March, 2008, a copy of the foregoing Entry of Appearance was mailed to Joseph Larson, 222 Bosley Avenue, Suite B-3, Towson, Maryland 21204, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



ROBERT E. SPELLMAN, P.L.S.
JOSEPH L. LARSON

CIVIL ENGINEERS AND LAND SURVEYORS
222 BOSLEY AVENUE, SUITE B-3
TOWSON, MARYLAND 21204
TEL (410) 823-3535 / FAX (410) 825-5215

Mr. Carl Richards, Supervisor
Office of Zoning
Department of Permits & Development Management
Baltimore County

February 27, 2008

Re: Case No. 08-392-A
306 New Avenue
Case No. 08-393-A
308 New Avenue

Dear Carl,

The two aforementioned Petitions have just been filed with your office for scheduling of the Zoning Hearings and I have just learned that one of the owners has certain time constraints in the latter part of April. We are in hopes that you can have these two Hearings scheduled prior to April 23, 2008 which is the last day that one of the owners will be available.

The owner of 306 New Avenue will be out of town beginning Wednesday April 23rd and will not return for a period of approximately three weeks. We are in hopes of having the Hearings scheduled prior to that departure date and look to you to afford us your kind consideration with this scheduling problem.

The two Petitions are tied together for obvious reasons related to their being two lots of a Minor Subdivision.

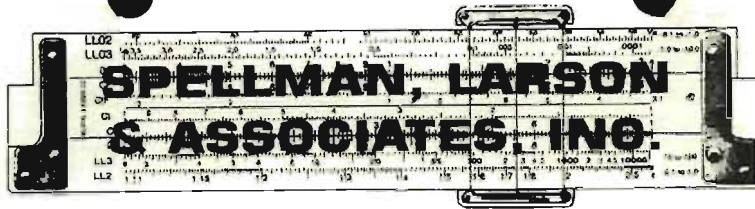
I would appreciate your doing whatever you can do to accommodate this request.

Very truly yours,

Joseph L. Larson, President
Spellman, Larson & Assoc., Inc.

cc: Edie Beard
Mary Beard

File#L02270801



ROBERT E. SPELLMAN, P.L.S.
JOSEPH L. LARSON

CIVIL ENGINEERS AND LAND SURVEYORS
222 BOSLEY AVENUE, SUITE B-3
TOWSON, MARYLAND 21204
TEL (410) 823-3535 / FAX (410) 825-5215

Honorable William Wiseman, Zoning Commissioner
Office of the Zoning Commissioner
New Courts Building
Towson, MD 21204

April 30, 2008

Re: 306 New Avenue
Case No. 08-392A
308 New Avenue
Case No. 09-393A
Job No. 205121

RECEIVED
MAY 05 2008

BY:.....

Dear Commissioner Wiseman,

In accordance with your instructions at our Zoning Hearing for the above captioned properties, I am submitting herewith copies of the two Deeds for the subject properties. I trust that the attached documents speak for themselves and are sufficient for your information at this point whereby if we can be of any further service or provide you any additional information please feel free to contact me at any time.

Very truly yours,

Joseph L. Larson, President
Spellman, Larson & Assoc., Inc.

cc: Mary Beard
Edie Beard

File#L04280802

To: Joe

From: Mary

0402-02087

RECORDED
INDEXED
FOR

00 JUL-9 4:10:31

INDEXED
FILED
OFFICE

D E E D

TRANSFERRED

JOHN OLIVER BEARD
to
JOHN OLIVER BEARD, for life;
MARY A BEARD, Remainderman

DATE 7-9-8
313

8

LAW OFFICES
WALTER B. SIWINSKI
208 W. PENNSYLVANIA AVENUE
TOWSON, MD. 21204

NO TITLE EXAMINATION - NO TRANSFER TAX - NO DOCUMENTARY STAMPS

THIS DEED, made this 1st day of July, 1980, by and between JOHN OLIVER BEARD, of Baltimore County, State of Maryland, party of the first part, Grantor; and JOHN OLIVER BEARD, party of the second part, Grantee.

WITNESSETH that, for and in consideration of the sum of One Dollar (\$1.00), and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said party of the first part does hereby grant and convey unto JOHN OLIVER BEARD, for and during the term of his natural life, with the powers hereinafter set forth, and immediately upon and after his death, unto his daughter, MARY A. BEARD, her heirs and assigns, in fee simple, all that lot of ground situate, lying and being in Baltimore County aforesaid, and described as follows, that is to say: --

All that lot of ground known and designated as Lot #13 on subdivision of property of Jacob W. Wolf at Reisterstown, which plat is recorded in the office of the Clerk of the Circuit Court in Baltimore County in Plat Book W.P.C. No. 7, folio 79. Said lot being located on the westernmost side of Wolf Avenue as shown on said plat having a frontage thereon of 45 feet with an average depth of about 222 feet.

Being the same lot of ground described in a deed dated March 19, 1926 from Jacob W. Wolf and Sarah A. Wolf, his wife, to Matilda Washington and William M. Washington, her husband, and recorded among the Land Records of Baltimore County in Liber W.P.C. 630, folio 185.

Being also the same lot of ground described in a deed dated November 20, 1949 and recorded among the Land Records of Baltimore County in Liber T.B.S. No. 1828, folio 176, from William M. Washington, widower, to Alverda Beard and John Oliver Beard, as joint tenants; the said Alverda Beard having departed this life on September 28, 1974, full title to the premises devolving upon John Oliver Beard, the Grantor herein.

TOGETHER with the buildings and improvements thereon erected, made or being, and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or anyway appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises unto and to the use of JOHN OLIVER BEARD, for and during the term of his natural life, with full power in him to collect and receive all income and profits issuing and payable out of said property, and apply the same to his own use and benefit as he may see fit, and to sell, mortgage, lease or in any manner dispose of the life estate and remainder in said property, or any part thereof (except by Last Will and Testament), and consume the proceeds of any sale or other disposition of said property; and no purchaser dealing with him shall be bound to see to the application of the purchase money, or any other money

TRANSFER TAX NOT REQUIRED
RANOLPH B. ROSENCRANTZ
CLERK OF PROCLAMATION

BALTIMORE COUNTY, MARYLAND

7-11-80

RECORDED

RE-11-80

paid to him in the exercise of the power herein contained; and immediately upon and after the death of the said JOHN OLIVER BEARD, to have and to hold all or so much of said property not disposed of by the said JOHN OLIVER BEARD, in the exercise of the power hereunder, unto and to the proper use and benefit of his daughter, MARY A. BEARD, provided, however, that she survive him; should the said MARY A. BEARD predecease the said JOHN OLIVER BEARD with a child or children surviving her, then, in such event, the remainder interest herein shall pass to said children, share and share alike, absolutely; should the said MARY A. BEARD predecease the said JOHN OLIVER BEARD without children surviving her, then, in such event, the remainder interest herein shall pass to EDIE E. BEARD, forever, in fee simple.

AND the said party of the first part does hereby covenant that he has not done or suffered to be done any act, matter or thing whatsoever to encumber the property hereby granted and conveyed, and that he will warrant specially the property hereby conveyed and granted, and that he will execute such further assurances of said land as may be requisite.

WITNESS the hand and seal of said Grantor:

Walter B. Turner, Jr. *John Oliver Beard* (SEAL)
Witness John Oliver Beard

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY that, on this 15th day of June, 1980, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County aforesaid, personally appeared JOHN OLIVER BEARD, the above named Grantor, and he acknowledged the foregoing deed to be his act.

AS WITNESS my hand and Notarial Seal.

Walter B. Turner, Jr.
Notary Public

JM ✓
9-6-06

IN RE: PETITIONS FOR SPECIAL HEARING
AND VARIANCE
W/S of New Avenue, 247 feet south of
C/I of Bond Avenue
4th Election District
3rd Councilmanic District
(306 New Avenue)

Mary A. Beard
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* **CASE NO. 07-025-SPHA**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing and Variance filed by the legal owner of the subject property, Mary A. Beard. The Petitioner is requesting special hearing relief for property owned at 306 New Avenue. The Special Hearing request is filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to confirm that lot #13 was not merged with lot #14, that the current owner of lot #13 does not own sufficient adjoining property to allow the property owner to conform to the current zoning requirements, and to confirm that the accompanying petition for a variance, if granted, will render lot #13 a buildable lot for zoning purposes. The Variance is to permit a lot width of 44 feet in lieu of the required 70 feet and to permit a front yard setback of 19 feet in lieu of the required 30 feet and to permit a side yard setback of 7 feet in lieu of the required 15 feet and a sum of side yard widths of 17 feet in lieu of the required 25 feet.

The property was posted with Notice of Hearing on August 20, 2006, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on August 22, 2006, to notify any interested persons of the scheduled hearing date.

Associates, Inc., prepared the site plan. There were no protestants or citizens at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The subject property contains 10,593 square feet zoned DR 3.5 and is improved by the Petitioner's deceased father's home. Mr. Larson proffered that the subject property is lot 13 of a subdivision that was recorded in the land records in July 1979. He indicated that John Beard owned this lot and the adjacent lot (lot 14) prior to his death. He conveyed lot 13 to the Petitioner and lot 14 to her sister, Edie Beard, upon his death. Both lots are 44 feet wide while the DR 3.5 regulations require 70 feet.

The Petitioner would like to replace the existing house which measures only 20 x 36 feet with a more modern house which would be 27.3 x 64 feet as shown on Petitioner's exhibit 1, the Plat to Accompany. Mr. Larson explained that the reason for the special hearing arises because some years ago the deceased Mr. Beard built a swimming pool on lot 14 without a zoning hearing which likely merged the two lots. He noted that the lots were separately assessed for tax purposes as shown by exhibit 2. Edie Beard said that when her father applied for a permit in the County to build the pool, no one told her or her father that this might show intent to merge or that this intent to merge could be avoided by applying for a special hearing for an accessory structure without a principal structure. She believes her father had no intent to merge the lots.

In regard to the variance requests, the proposed house on lot 13 would be located exactly the same distance from the front street as the existing house or 19 feet. The DR 3.5 regulations require 30 feet. In addition the existing house is within 9 feet of the common lot line between lots 13 and 14. The new home would be 7 feet from the common lot line to allow for a larger, more modern home. Finally the larger home would not meet the sum of the side yard setback requirements of 25 feet. Instead the sum of the side yard setbacks would be 17 feet.

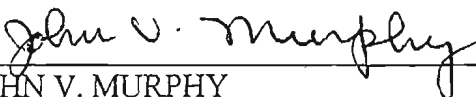
of the variance case. The merits of a variance case at resubdivision will turn on classic variance case criteria including pattern of development of the neighborhood.

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

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 7th day of September, 2006, that the Petitioners' request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to confirm that lot #13 was not merged with lot #14 and the current owner of lot #13 does not own sufficient adjoining property to allow the property owner to conform to the current zoning requirements and to confirm that the accompanying petition for a variance, if granted, will render lot #13 a buildable lot for zoning purposes is hereby DENIED; and

IT IS FURTHER ORDERED, that the Variance request is to permit a lot width of 44 feet in lieu of the required 70 feet and to permit a front yard setback of 19 feet in lieu of the required 30 feet and to permit a side yard setback of 7 feet in lieu of the required 15 feet **and a sum of side yard widths of 17 feet in lieu of the required 25 feet** are hereby DENIED without prejudice or a determination of the variance case on the merits. The Petitioner may apply for the requested variances along with others needed during the resubdivision process.

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


JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

0024886 0471

DEED

**No Consideration
No Title Search
No Transfer Tax**

**New Avenue
Reisterstown, Maryland 21136
District Number-04
Tax ID # 04-02-020900
Election District**

THIS DEED, dated September 26, 2006 from **EDIE E. BEARD**, Grantor, to **EDIE E. BEARD**, Grantee.

The Grantor for consideration of Zero Dollars (\$0.00) grants, conveys and assigns to the Grantee, her personal representatives, heirs and assigns, in fee simple, all that lot of ground situate, lying in the Fourth Election District of in Baltimore County, State of Maryland, and described as follows:

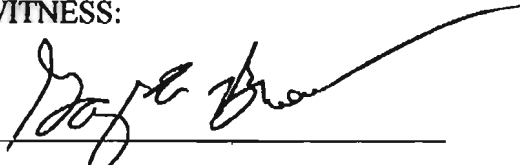
BEGINNING for the same on the west side of Wolfe Avenue at a point distant ninety feet northerly from the corner formed by the intersection of the west side of Wolf Avenue with the north side of Jacob Avenue, which place of beginning is at the division line between nos. 13 and 14 as shown on the plat of Jacob W. Wolfe's property, recorded among the Land Records of Baltimore County in Plat Book W.P.C. No. 7, folio 79, and running thence southerly binding on the west side of Wolfe Avenue fifty-three feet; thence westerly parallel with Jacob Avenue and by a line parallel to and eight feet from the southernmost line of lot no. 14 as shown on said plat two hundred and sixteen feet more or less, to the westernmost lines of lots nos. 15 and 14 fifty-two and six-tenths feet to lot no. 13; thence easterly parallel with Jacob Avenue and being on lot no. 13 two hundred and twenty feet to the place of beginning. Being and comprising all of lot no. 14 and the northernmost eight feet of lot no. 15, as shown on the plat of Jacob W. Wolf's property above referred to. The improvements thereon being known as **NEW AVENUE**.

Being the same property described in the Life Estate Deed dated September 3, 1980 and recorded among the Land Records of Baltimore County at Liber W.H.M. No 810, folio 139, from Jacob W. Wolf and Sarah Wolfe unto John E. Beard and Alverta Beard; his wife; the said Alverta Beard having departed this life September 28, 1974 and John E. Beard having departed this life January 4, 1980, thereby full rights and title to the premises to their son, John O. Beard. John O. Beard having on September 18, 2003 predeceased his daughter, Edie E. Beard, thereby vesting full rights and title in Edie E. Beard by right of survivorship, Grantor.

To have and to hold the property hereby conveyed to the Grantee, her personal representatives, heirs and assigns, in fee simple, forever.

The Grantor covenant to warrant specially the property hereby conveyed, and to execute such further assurances of the property as may be requisite.

WITNESS:

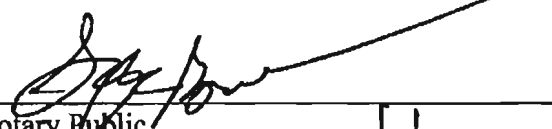


 Edie E. Beard
 Grantor

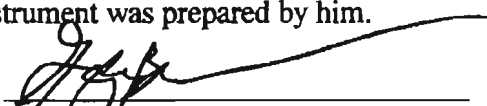
State of Maryland, City/County of Baltimore, to wit:

I HEREBY CERTIFY, that on this 26th day of September, in the year 2008, before the subscriber, a Notary Public of the State of Maryland, personally appeared Edie E. Beard, known to me to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing Deed to be her act.

In WITNESS WHEREOF, I hereunto set my hand and official seal.


 Notary Public
 My Commission expires: 11/1/08

The UNDERSIGNED, a member in good standing of the Bar of the Court of Appeals of Maryland, hereby certifies that the within instrument was prepared by him.


 Gary M. Brooks, Esquire

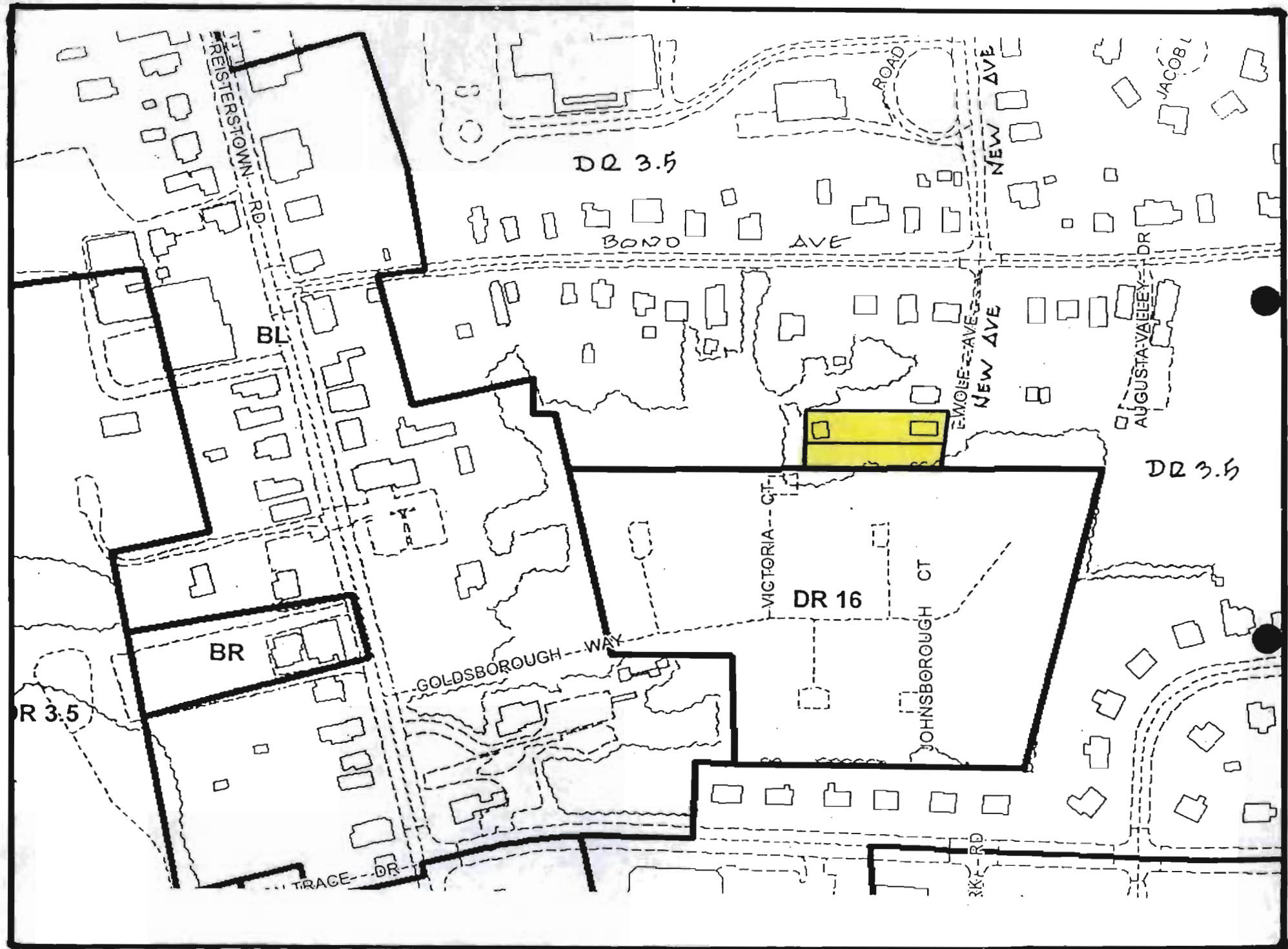
Mail to:

Gary M. Brooks, Esquire
 Law Offices of Gary M. Brooks, LLC
 One East Lexington Street, Suite 407
 Baltimore, Maryland 21202
 (410) 385-0206 office
 (410) 385-0993 fax

CASE NAME 706 NEW AVE
CASE NUMBER 08-392 A
DATE 4.18.08

[illegible]

ZONING MAP 048C2



SCALE: 1" = 200'



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw2.3)

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

Account Identifier: District - 04 **Account Number -** 0402020875

Owner Information

Owner Name:	BEARD JOHN OLIVER	Use:	RESIDENTIAL
Mailing Address:	306 NEW AVE REISTERSTOWN MD 21136-1320	Principal Residence:	NO
		Deed Reference:	1) / 6182/ 28 2)

Location & Structure Information

Premises Address	Legal Description
306 NEW AVE	306 NEW AVE JACOB W WOLFE PLAT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
48	17	519					13	1	Plat Ref: 7/ 79

Special Tax Areas

Town	
Ad Valorem	
Tax Class	

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1931	720 SF	9,931.00 SF	04
Stories	Basement	Type	Exterior
1	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2007	07/01/2007	07/01/2008
Land	41,480	89,930		
Improvements:	53,810	95,420		
Total:	95,290	185,350	125,310	155,330
Preferential Land:	0	0	0	0

Transfer Information

Seller: WASHINGTON WILLIAM M	Date: 03/29/1950	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: / 6182/ 28	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
Exempt Class:

Special Tax Recapture:
 * NONE *

http://sdatcert3.resiusa.org/rp_rewrite/maps/showmap.asp?countyid=04&accountid=04+04020... 04/15/08

Case No.: 08-392-A 306 New Ave.

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	Site Plan	
No. 2		
No. 3		
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

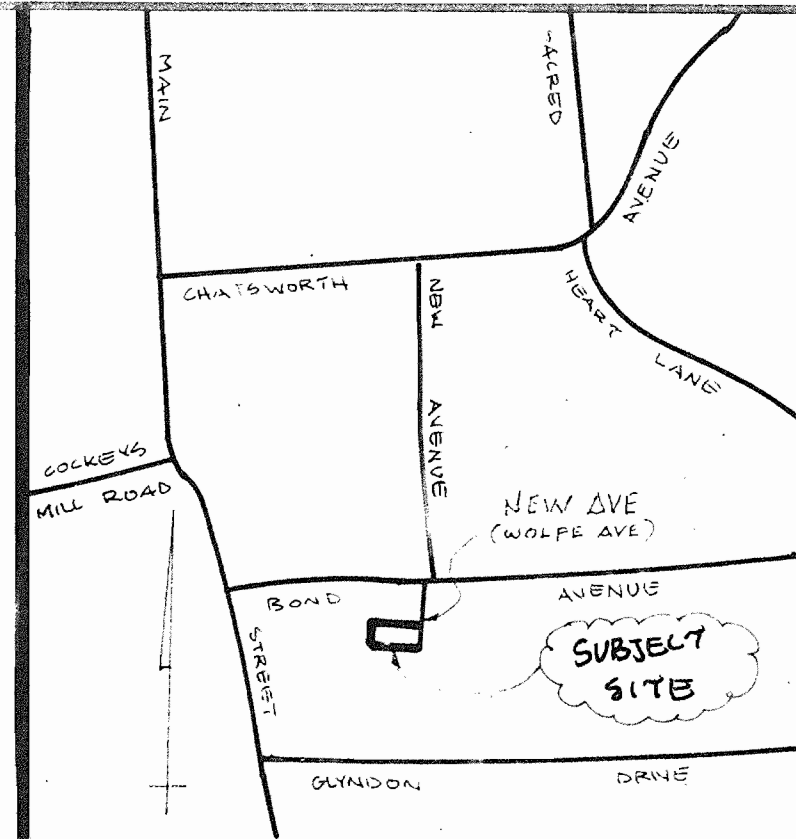
GENERAL NOTES

1. THERE ARE NO ARCHEOLOGICAL SITES, CRITICAL AREAS, HAZARDOUS MATERIALS, ENDANGERED SPECIES HABITATS, OR HISTORIC BUILDINGS ON THE SUBJECT SITE.
2. THERE ARE NO STREAMS, BODIES OF WATER, OR SPRINGS ON OR ADJACENT TO THE SUBJECT SITE.
3. THERE ARE NO UNDERGROUND STORAGE TANKS ON THE SUBJECT SITE.
4. THE SITE DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
5. THE SITE DOES NOT LIE WITHIN A 100 YEAR FLOOD PLAIN.

OWNER INFORMATION

JOHN OLIVER BEARD
306 NEW AVENUE
REISTERSTOWN, MD. 21136

EDIE E. BEARD
14 MIDDLE GROVE CT. E
WESTMINSTER, MD. 21157



VICINITY MAP

SCALE: 1" = 1000'

SITE DATA

ZONING MAP 048 C.2
COUNCILMANIC DISTRICT 3RD
EX ZONING DR 3.5
TAX MAP/GRID/PARCEL 48/17/519
UTILITIES PUBLIC - WATER
PUBLIC - SEWER

PROPERTY IDENTIFICATION

PROP. LOT 1 (LOT 13 - PB 7 FOLIO 79)
PART OF LOT 14
SITE AREA (10,125⁺) = 0.23 AC⁺
TAX ACCOUNT NO. 0402020875
DEED REFERENCE 6182/28

PROP. LOT 2 (LOT 14 - PB 7 FOLIO 79)
PART OF LOT 15
SITE AREA (11,267⁺) = 0.26 AC⁺
TAX ACCOUNT NO. 0402020900
DEED REFERENCE 24886/47

ZONING HISTORY

CASE NO. 07-025-SPHA
AT A ZONING HEARING ON SEPT. 6, 2006 THE PETITION FOR SPECIAL HEARING TO ALLOW THAT LOTS NO. 13 & 14 WERE NOT MERGED WAS DENIED. WITHIN THE ZONING ORDER THE ZONING COMMISSIONER DIRECTED THAT THE LOTS BE SEPERATED BY THE SUBDIVISION PROCESS. UPON SUBDIVISION APPROVAL ANY REQUISITE VARIANCE RELIEF WILL BE APPLIED FOR AT THAT TIME.

REFER TO MINOR SUB. NO. 06-132M

SPELLMAN, LARSON & ASSOCIATES, INC.
CIVIL ENGINEERS AND LAND SURVEYORS
222 BOSLEY AVENUE, SUITE B-3
TOWSON, MARYLAND 21204
PHONE: 410-823-3535
FAX: 410-825-5215

PETITIONER'S

EXHIBIT NO. 1

PLAT TO ACCOMPANY
ZONING PETITION

#706 & 708 NEW AVE.

4TH DISTRICT

BALTIMORE CO., MD

SCALE: 1" = 20'

FEBRUARY 4, 2008
REV. FEB 8, 2008

