

10/16/09

IN THE MATTER OF
RUSSELL AND BRENDA KAHN – LEGAL
OWNER/PETITIONER
PETITION FOR SPECIAL HEARING AND
VARIANCE ON THE PROPERTY LOCATED
ON THE E/S LONGNECKER ROAD, 390' N
OF PINEY GROVE ROAD
(14223 AND 14225 LONGNECKER ROAD)

4th Election District
3rd Councilmanic District

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: 08-425-SPHA
*

* * * * *

OPINION

This matter comes before the Board of Appeals for Baltimore County on appeal of an order of the Zoning Commissioner dated October 28, 2008 in which the Petitioners request for Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") and Section 32-4-409(c) of the Baltimore County Code ("BCC") to allow a building lot access to a road through an existing right-of-way was denied; and Petitioner's request for Variance from Section 32-4-409(e)(2) of the Baltimore County Code to approve access to the subject property by way of a private use-in-common right-of-way of 3,810' in lieu of the maximum 1,000' was denied. A public de novo hearing was held by the Board on June 10, 2009. Petitioners Russell and Brenda Kahn, were represented by Francis X. Borgerding, Jr., Esquire. Protestants were represented by J. Carroll Holzer, Esquire. Messer's Borgerding and Holzer agreed to submit Post-Hearing Memoranda to the Board in lieu of closing arguments. A public deliberation was held by the Board on August 12, 2009.

Background

The subject property is a rectangular shaped parcel consisting of 5.98 acres, zoned R.C.2, and located at 14225 Longnecker Road in the 4th Election District and the 3rd Councilmanic

District of Baltimore County. It is improved with a two-story residence, and is setback approximately 2,940' from Longnecker Road. Access to Longnecker Road from the subject property is via a 16.5' private right-of-way that is shared by 13 other lots (9 of which are improved with single family dwellings). The Petitioners propose to subdivide the lot into one additional residential lot. The address for the new lot would be 14223 Longnecker Road. The Petitioners are requesting access to Longnecker Road for the new lot via the existing right-of-way or, in the alternative, a Variance to allow a panhandle driveway in excess of the maximum 1,000' requirement to permit access to Longnecker Road.

Testimony and Evidence

Testifying on behalf of the Petitioners were Joseph Larson, a zoning technical consultant and land surveyor; Mark Daneker a title attorney; Mitchell Kellman an expert in planning, development and zoning regulations; and Russell and Brenda Kahn, Petitioners. Mr. Larson was accepted as an expert witness in land surveying. Testifying on behalf of the Protestants were neighbor George Mahoney, Jr., Neal Kravitz, Victoria Kravitz, Joan Bildstein, Nancy Baldwin, Michele Engelskirch, and David Flowers an expert in urban planning.

Mr. Larson described the property as a 5.9 acre tract situated on the southwest side of an existing 16.5' private right-of-way that is extended off Longnecker Road approximately 386'. He confirmed that the Kahn property is zoned R.C. 2. He testified that the right-of-way is the only access to Petitioner's lot and served several other lots as shown on Petitioner's Exhibit 1. He testified the Petitioners have the right, pursuant to the R.C. 2 regulations, to subdivide one additional lot from their 5.9-acre parcel. He testified that Baltimore County estimates that a single-family lot generates an average of 10 trips per day and that amount would not have an impact on the health, safety, and welfare of the surrounding community.

Mr. Daneker was accepted as an expert title attorney and described the investigation he did with regard to the titling of the right-of-way. His title certification with regard to the right-of-way was entered as Petitioner's Exhibit 4. He concluded that the Petitioners had the right of use of the right-of-way and the right to assign the use of the right-of-way to any property they may subdivide. A copy of the original document that granted the right-of-way was entered as Petitioner's Exhibit 5 and the chain of title with regard to the right-of-way stemming to the Kahn's was entered as Petitioner's Exhibit 6 and 7. Mr. Daneker also entered as Petitioner's Exhibit 8 a copy of the Maryland case of Mahoney v. Devonshire, 86 Md. App. 624 (1991), which supports his testimony that a land owner who benefits from a right-of-way may subdivide his property with the use of the right-of-way extending to the subdivided lot.

Mitchell Kellman testified on behalf of the Petitioners and was accepted by the Board as an expert in planning, zoning and development regulations. He testified, in his opinion, Section 32.4-409(c) of the Baltimore County Code applies as the case before the Board involves a right-of-way not a panhandle. He explained that a panhandle would be an access strip held in-fee as an extension of a lot as opposed to a right-of-way, which is not owned by the lot owner. He testified the impact of adding one additional house adjacent to the right-of-way would have a "very minimal impact" and that whatever condition exists on the right-of-way, he did not believe that adding an average of 10 daily trips, as established by Baltimore County on average for one additional lot, through the right-of-way would impact the right-of-way.

Mr. Kellman concluded that the Special Hearing relief should be granted because of the testimony of Mr. Daneker, the title attorney, that the right-of-way existed since 1910, the additional lot is permitted by the BCZR and that it would not burden the existing right-of-way,

the Kahn's want to contribute to the paving of the right-of-way, and it is not a panhandle because it does not have in-fee ownership.

On cross-examination of Mr. Holzer, Mr. Kellman testified that the recommendations of the Baltimore County Office of Planning (Petitioner's Exhibit 12) and Baltimore County Fire Department comments (Petitioner's Exhibit 13) would have to be met in the future in the subdivision process. When asked by Mr. Holzer on cross-examination, if Mr. Kahn was operating a business out of his home, he testified that he did not know.

Russell Kahn, Petitioner, testified that he and his wife have lived at 14225 Longnecker Road for 6 ½ years and works out of his house in the cabinetry business. He is presently improving his kitchen. He testified that he would comply with the Zoning Committee's recommendations presented as Petitioner's Exhibit 11 to include: a paved driveway, a 30x70 turn around at the end of the driveway, 14% grade on the driveway, and placement of trash and a mailbox at Longnecker Road.

The first witness for the Protestants was George W. Mahoney, Jr., who lives at 13634 Longnecker Road. He testified he has driven the right-of-way and that its condition is not very good because of potholes and the egress and ingress due to its width. On cross-examination by Mr. Borgerding, he testified he does not live off of the right-of-way and opposed it in a 1991 case. He said he has not been approached to help pave the right-of-way.

Mr. Richard Deurer testified he moved to the area 13 years ago and appeared at the Zoning Commissioner's hearing. He filmed the right-of-way and the tape was played at the Board hearing. He testified the road is bad and is used more than it was meant to be. He is concerned about a precedent being set for other properties to develop. He said he moved there not to develop but for the beauty of the area. He said there are more deer than people. He said

paving the right-of-way would be bad. On cross-examination by Mr. Borgerding, Mr. Deurer testified that he is happy with the present condition of the right-of-way and does not want it paved. He testified that two homes had been added to the right-of-way since he moved there.

Mr. Neal S. Kravitz testified for the Protestants. Mr. Kravitz lives at the end of the right-of-way at Longnecker Road. He testified his well is 8' from the road and he is concerned about traffic. He declines to participate in paving the right-of-way. He also appeared at the Zoning Commissioner's hearing. On cross-examination by Mr. Borgerding, he testified that he works out of his home and gets deliveries in his business. He has 4 vehicles and does not want to pave the right-of-way. He testified he received a variance in 1975 to operate his business.

Ms. Joan Bildstein also testified for the Protestants. She testified she has lived there for 38 years. She also appeared at the Zoning Commissioner's hearing. Her concerns are that the area is turning into a development. She can subdivide her property also. Adding another home would add more trouble. She is concerned about safety and fire trucks having difficulty. On cross-examination by Mr. Borgerding she testified she doesn't want this road paved because of the cost and her husband's health. She doesn't want the subject lot subdivided. She is happy with the status quo.

Ms. Nancy Baldwin testified for the Protestants and said the County's 1,000-foot limit for panhandles makes sense. She is concerned about safety. She testified there is no land use agreement for the right-of-way. On cross-examination by Mr. Borgerding, she testified that she does not want the right-of-way paved.

Michelle Engelskirch testified for the Protestants. She is a personal trainer. She testified she is not for paving and has been run off the road by Mr. Kahn's people.

Protestants last witness was Mr. David Flowers. Mr. Flowers testified he is a Private Consultant and processes urban planning. He was employed by Baltimore County for 31 years in the Zoning Office, Planning Office and Permits and Development Management. He was accepted as an expert witness in urban planning. He testified he was retained one year ago and visited the site 3 times. He did not attend the Zoning Commissioner's hearing. He testified his impression of the right-of-way is that it is very narrow, consists of dirt and stone, can accommodate 1 car and has numerous turns. He testified that he agrees with Mr. Kellman's testimony that the right-of-way is not a panhandle and the Petition for variance is immaterial. On cross-examination by Mr. Borgerding, Mr. Flowers testified that the property is not in an urban area. He testified there are existing problems on the right-of-way but cannot recommend anything. He said paving will not solve the problem.

On rebuttal, Mr. Borgerding called Mr. Kahn. Mr. Kahn testified that he has contributed to repairs to the right-of-way over the six years.

This concluded the testimony and exhibits. Messer's Borgerding and Holzer agreed to submit post-hearing memoranda.

Decision

After reviewing the testimony, exhibits and post-hearing memoranda, the Board concluded that the driveway to Longnecker Road is not a panhandle driveway but is a right-of-way. This conclusion is supported by Section 32.4-409(b), which requires the owners of adjacent properties to panhandle driveways to have an in-fee ownership of the driveway. None of the adjacent owners in the area have an in-fee ownership of a portion of the driveway. Also the uncontested testimony of Mr. Danecker confirms that the driveway is in fact a right-of-way and the new lot has the right of access to the right-of-way. The uncontested testimony of Mr.

Larson, also confirms that the Petitioner has a right to subdivide their R.C. 2 zoned lot into one additional lot. The testimony of the Protestants centered almost exclusively on the condition of the right-of-way and the impact the new lot would have on it. They testified that it is in lousy shape now and difficult to maneuver and adding an additional lot would only make a bad situation worse. Their testimony indicated that they are not willing to improve the right-of-way such as paving, however, the testimony of the Petitioners indicates they are willing to participate in any improvements. The Board agrees with Mr. Kellman that adding an average of 10 daily trips as established by Baltimore County on average for one additional lot, will not have a detrimental impact on the right-of-way. The Board determined that any traffic conditions would be addressed during the development process for the new lot and therefore are not an issue in the current matter. The Board therefore unanimously agreed that the Petition request for Special Hearing relief to allow a building lot access to Longnecker Road through an existing right-of-way is granted and Petitioner's request for a Variance in the alternative to allow the panhandle driveway is denied as moot.

ORDER

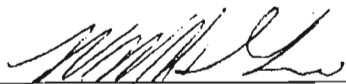
THEREFORE, IT IS THIS 16th day of October, 2009 by the
County Board of Appeals of Baltimore County

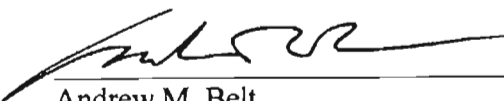
ORDERED that Petitioners request for Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") and Section 32-4-409(c) of the Baltimore County Code ("BCC") to allow a building lot access to a road through an existing right-of-way, be and the same is hereby GRANTED; and it is furthered

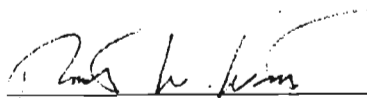
ORDERED that Petitioner's request for Variance from Section 32-4-409(e)(2) of the Baltimore County Code to approve access to the subject property by way of a private use-in-common right-of-way of 3,810' in lieu of the maximum 1,000', be and the same is hereby DISMISSED AS MOOT.

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**


Wendell H. Grier, Panel Chair


Andrew M. Belt


Robert W. Witt



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
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October 16, 2009

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue, Suite 600
Towson, MD 21204

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

RE: *In the Matter of: Russell and Brenda Kahn-Legal Owners/Petitioners*
Case No.: 08-425-SPHA

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

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*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Theresa Shelton/kc

Theresa R. Shelton
Administrator

TRS/klc
Enclosure

Duplicate Cover letter

c: Russell and Brenda Kahn
Neil and Victoria Kravitz
Mark and Michelle Engelskirch
Mr. and Mrs. Bildstein
Lewis and Laury Scharff
F. Evans
Office of People's Counsel
Arnold F. "Pat" Keller, III, Director/Planning
Nancy West, Assistant County Attorney

Joseph Larson
Douglas R. Grice
Nancy Baldwin and Richard Deurer
George Mahoney, Jr.
Gary and Judy Siegel
Elizabeth Ryan
William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
John Beverungen, County Attorney

7/24/09

IN RE: PETITIONS FOR SPECIAL HEARING
AND VARIANCE

E/S Longnecker Road,
390' N of Piney Grove Road
(142253 & 142225 Longnecker Road)

15th Election District
3rd Councilmanic District

Russel A. Kahn, *et ux.*

Petitioners

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: 08-425-SPHA

* * * * *

PROTESTANT'S MEMORANDUM IN LIEU OF FINAL ARGUMENT

Mr. & Mrs. Bildstein, Richard Deurer, George Mahoney, Neil and Victoria Kravitz, Nancy Baldwin and Michael Engelskirch, by J. Carroll Holzer, Esquire, hereby submits this Memorandum and says:

FACTS

This matter comes before the County Board of Appeals for consideration of Petitions for Special Hearing and Variance filed by the owners of the subject property, Russel A. Kahn and his wife, Brenda Kahn. The Petitioners request a Special Hearing to approve a waiver, pursuant to §500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) and §32-4-409(c) of the Baltimore County Code (B.C.C.), development regulations, to permit access to a street (Longnecker Road to Piney Grove Road) through an existing right-of-way in lieu of a panhandle strip. In addition, Petitioners request a variance from §32-4-409(e)(2) to allow access to the

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BOARD OF APPEALS

subject property by way of a 16.5 foot private right-of-way of 3,420 feet for a proposed lot (14223 Longnecker) in lieu of the maximum permitted 1,000 feet. The subject property and requested relief are more particularly described on the revised Site Plan submitted which was accepted into evidence and marked as Petitioners' Exhibit #1.

Testimony and evidence offered disclosed that the Petitioners own 5.94 acres of land, located on the northeast side of Piney Grove Road, in the Reisterstown/Glyndon area of the County. The subject property is a rectangularly shaped parcel, zoned R.C. 2 and improved with a two-story family home built in 2006 that is centrally positioned on the lot and set back some 2,940 feet east of Longnecker Road. The Petitioners (Kahns) are relative newcomers to this Longnecker Road extended community area having acquired the property in March 2006. They reside at 14225 Longnecker Road (Parcel 102 on Maryland Tax Map 32) and propose to subdivide their lot into two (2) lots marked on the Site Plan (Petitioners' Exhibit #1) as 14223 and 14225 Longnecker Road. The plat shows an existing dwelling at 14225 and a proposed dwelling to be built on a new one-acre lot located on the property's northeast corner to be known as 14223 Longnecker. Both lots would be served by the existing access driveway that extends from Piney Grove Road to the Petitioners existing house and 13 other lots (ten (10) of which are improved with single-family dwellings, some of which historically date back as early as circa 1851 and sever others in the early 1900's). The issue here is whether or not the present use in common access driveway can accommodate an additional lot. The width of the common easement area is 16.5 feet, eight feet (8') of which is currently covered with well-compacted crusher run as shown on the many photographs and video submitted by Protestants. None of the lots have an in-fee strip of ten feet (10') as required for three (3) or more lots sharing a panhandle driveway.

The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. Of note, comments were received from the Bureau of Development Plans Review dated March 28, 2008. Dennis A. Kennedy, P.E., the Bureau's Supervisor, indicated that the driveway would need to be paved, provide a 30' x 70' tee-turnaround at the end of the driveway and have a title attorney certify that the Petitioners have the right to burden the existing right-of-way. There is no evidence in the record that these recommendations can or will be provided. The title attorney did testify before the Board but could not render an Opinion in regard to the impact of the additional traffic because he did not visit the site. Panhandle driveways and existing right-of-ways – in lieu of in-lane strips – pose problems for ordinary and emergency vehicles and are limited by Baltimore County Code §32-4-409(a) to assure new lots *will not conflict with efforts to provide for public safety and general welfare.*

The Protestants generally objected to the additional traffic to be served by the proposed additional lot on the driveway on the basis that under Baltimore County Code §32-4-409(a)(1)(iii)(iv) that the subject use of the common drive and the additional lot will be detrimental to adjacent properties and will conflict with efforts to provide for public safety and general welfare. George Mahoney, an adjacent neighbor testified as to his impression of the negative impact of additional vehicles on the common drive. The Protestants generally presented a video describing and showing for the Board the narrowness of the road, the difficulties of sight distance, curves, and the unimproved nature of the road. Multiple photographs were also presented to the Board establishing the meandering and unpaved in portions of the road system leading back that serves all of the neighbors on this dead end road. Mr. Deurer testified not only

as to the physical condition to the road, but the difficulties in traversing it for the current residents. He testified as to the nature of the use by the Petitioners which created problems including the operation of a business in which employees drive their vehicle to the Petitioners property.

Nancy Baldwin testified as to the difficulties in traversing the road in the morning on her way to work due to Mr. Kahn's employees additional use of the road. The residents try to maintain the current road maintenance and her testimony established that the Kahn's had not participated in the Community's maintenance of the current road system and condition.

Mr. & Mrs. Kravitz generally testified as to their opposition based on a number of items including incompatibility for the actively farmed area, it would be harmful to the rural quality of life, it would increase the risk for public services, it increased the burden on the common use drive, it increased the financial cost to existing residents for keeping the maintenance of the road, it increased the risk to farm animals and residents of the road who are required to walk the current drive. He testified as to the current drive is shared by ten (10) families at the present time.

Ms. Bildstein testified as to her concerns living directly across the street from the proposed additional lot. She testified that the road has too much traffic now and that because of her husband's medical condition, there is strong concern about the ability of emergency vehicles, including fire and ambulance to get back to serve the properties further back on the roadway. Mr. Engleskirch echoed the general testimony of his neighbors and strongly opposed the request.

Thus, the bulk of the neighbors on the existing drive opposed the two (2) Petitions.

David Flowers was called as an expert urban planner to testify. He had worked for over thirty-one (31) years for Baltimore County Government, in the Zoning Office for two (2) years, the Planning Office for fifteen (15) years, DEPRM for five (5) years and Permits and Development Management for nine (9) years. In reviewing and observing the subject road and the current situation in terms of the maintenance of that road, and analyzing the request for an additional lot, he rendered his opinion that this additional panhandle lot and the traffic created by it will negatively impact and be detrimental to the adjacent properties and will conflict efforts to provide for public safety and general welfare pursuant to §32-4-409. His conclusion was that the Board should deny this request as presented by the Petitioners.

ARGUMENT

The Protestants submit that the Board should deny the Petitioners request for variance to the one thousand foot (1,000') requirement of the County Code as well as reject the Special Hearing to approve a waiver to permit access through an existing right-of-way to Longnecker Road. The Protestants would submit that the testimony of Mark Daneker, the title attorney, was deficient in that he simply looked at the documents and deeds and was unable to form an opinion necessary for this Board to conclude that the variance and Special Hearing should be granted. He did not observed the overburdening of the easement. He did not see the physical roadway. He had no opinion as to the County's request for improvements to the roadway and as such has failed to address the issues presented in §32-4-409(e)(ii) of the Baltimore County Code.

The testimony established by the Protestants, along with the photographs and the video of what clearly is an insufficient and unsuitable roadway for additional traffic should convince the Board not to grant the request of the Petitioners. The road improvements suggested by the Department of Public Works which would be needed are not going to be accomplished by the Petitioner in this case. As a result, traffic will continue to be burdened.

According to the testimony of the Protestants, the Petitioner has utilized his home and still doing so to some extent for a kitchen cabinet making business which creates additional traffic from employees, delivery trucks and other vehicles which has added to the burden already sustained by the rest of the Community.

For all the reasons presented by the Protestants, the Board should **DENY** the Petition for Special Hearing and Variance.

Respectfully submitted,



J. CARROLL HOLZER, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of July, 2009, a copy of the foregoing was mailed first class, postage pre-paid to the following: Francis X. Borgerding, Jr., Esquire, Mercantile Building – Suite 600, 409 Washington Avenue, Towson, Maryland 21204.



J. CARROLL HOLZER, Esquire

7/24/09



IN THE MATTER OF:
RUSSELL KAHN and BRENDA KAHN
14223 AND 14225 Longnecker Road
4th Election District
3rd Councilmanic District

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* Case No.: 08-425-SPHA

* * * * *

PETITIONERS' CLOSING BRIEF

Russel Kahn and Brenda Kahn, Petitioners, by and through their attorney, Francis X. Borgerding, Jr., prepares this Closing Brief and in support of says:

I.

TESTIMONY

Testifying at the hearing in the above-captioned case on behalf of the Petitioners were Joseph Larson, zoning technical consultant, Mark Daneker, expert title attorney, Mitch Kellman, expert in planning, zoning and development regulations, Russel Kahn and Brenda Kahn.

Testifying in opposition to the Petitioners' requested relief were George Mahoney, Neal Kravitz, Victoria Kravitz, Joan Bildstein, Nancy Baldwin, Michelle Engelskirch and David Flowers, expert in urban planning.

Joseph Larson testified and was accepted by the Board as a zoning technical consultant. Entered into evidence through Mr. Larson was Petitioners' Exhibit No. 1 which is a zoning plat which accompanied the Petitioners' requested relief with a revision date of July 30, 2008. Mr. Larson described the property as a 5.9 acre tract situated on the southeast side of an existing 16 ½ foot private right-of-way that is extended off Longnecker

Road approximately 3,800 feet. The property is zoned R.C. 2 and is served by private water and well and private sewage disposal. (T. 12). The right-of-way is the only access to Petitioners' lot and serves several other lots as shown on the Petitioners' Exhibit No. 1. (T. 13). Mr. Larson testified that the Petitioners had the right pursuant to the R.C. 2 regulations to subdivide one additional lot from their 5.9 acre parcel. (T. 14). Further, Petitioners' requested relief, pursuant to Section 32-4-409(c) or alternatively Section 32-4-409(e)(2) of the Baltimore County Code (herein "BCC") is requested to access to the proposed lot. (T. 14).

Mr. Larson testified that based upon his investigation, it was his conclusion that the Petitioners have the right to access the right-of-way for the proposed new lot. (T. 14). Mr. Larson noted that Baltimore County estimates that a single family lot would generate an average of 10 trips per day and further noted he believed that that amount of trips per day would not have an impact of the health, safety and welfare of the surrounding community. (T. 15).

When questioned about Petitioners' requested relief for a variance, pursuant to Section 32-4-409(e)(2) of the BCC, Mr. Larson testified that he believed that the right-of-way and lot are unique due to the creation of the right-of-way before the existence of the Baltimore County Zoning Regulations (herein "BCZR"). Also, the said right-of-way has been used since its creation by other lots. (T. 16). Mr. Larson also testified that he believed that the Petitioners would suffer practical difficulty if the proposed variance is not granted because the Petitioners would not be allowed to develop their property as they have a right to do in accordance with the BCZR. (T. 16-17). On cross-examination, Mr. Larson indicated that the paved area of the right-of-way varies from approximately eight

to twelve feet. (T. 18). Mr. Larson indicated that the Baltimore County Zoning Advisory Comments from the Department of Public Works and Planning did not indicate there was a traffic problem in relation to the right-of-way that needed further investigation. (T. 22). Mr. Larson indicated that the Zoning Advisory Comment from the Department of Public Works recommended but not require certain things. (T. 23). Mr. Larson indicated that the Petitioners has gone through, in his opinion, the standard process in attempting to get the zoning issues reviewed prior to the minor subdivision process with regard to the requested relief. (T. 24-25). Mr. Larson indicated that he did not believe the additional one lot would have a detrimental impact from a traffic standpoint. (T. 25). Petitioners' Exhibit No. 2 entered into evidence, per Mr. Larson, which was a comment from Wally Lippincott from Agricultural Preservation Section of the Baltimore County Department of Environmental Protection Resource Management indicating they do not oppose Petitioners' requested relief.

Mr. Larson confirmed that the Petitioners are willing to accept the conditions from the Board requiring the T-turn-around and fourteen percent grade as recommended in the Baltimore County Department of Public Works Comment. (T. 34). In addition, Mr. Larson indicated the Petitioners were willing to contribute their proportionate share for the paving of the 16 foot right-of-way if the Board felt appropriate. (T. 34).

Mark Daneker testified on behalf of the Petitioners. Mr. Daneker was accepted by the Board as an expert title attorney and his Curriculum Vitae was submitted before the Board and entered as Petitioners' Exhibit No. 3. (T. 39). Mr. Daneker described the investigation he did with regard to the titling of the right-of-way at issue before the Board. (T. 40-41). Mr. Daneker's title certification with regard to the right-of-way was entered

before the Board as Petitioners' Exhibit No. 4. Mr. Daneker summarized his findings and concluded his opinion as a title attorney and from the examination of the records it is unquestioned that the Petitioners have the right of use of the right-of-way and to assign the use of the right-of-way to any property that they may subdivide. (T. 42-46). A copy of the original document which granted the right-of-way was entered before the Board as Petitioners' Exhibit No. 5. The chain of title with regard to the right-of-way stemming to the Kahns was entered as Petitioners' Exhibits 6 and 7. Mr. Daneker further entered as Petitioners' Exhibit No. 8 a copy of the Maryland case of *Mahoney v. Devinshire*, 86 Md. App. 624 (1991) case which he submitted to the Board in support of the proposition that a land owner's who benefits from a right-of-way may subdivide his property with the use of the right-of-way extending to the subdivided lot. (T. 44-46).

Mitchell Kellman testified on behalf of the Petitioners and was accepted by the Board as an expert in planning, zoning and development regulations. (T. 57). His Curriculum Vitae was accepted by the Board as Petitioners' Exhibit No. 9. Mr. Kellman indicated his present position is director of zoning services with the firm of Daft, McCune & Walker (T. 55). Mr. Kellman indicated that before going into private practice he started employment with Baltimore County in 1980 and worked there until approximately eight years ago working as a planning and zoning associate with Baltimore County in the Zoning Office and a planner with the Baltimore County Office of Zoning. (T. 55). Mr. Kellman described the investigation he performed on the Petitioners' requested relief. (T. 57-58). Mr. Kellman indicated that at various parts of the right-of-way there are areas to pull off the paved area. (T. 59). Mr. Kellman indicated that in his opinion Section 32-4-409(c) of the BCC applies to the matter presently before the Board. (T. 60). As the case before the

Board involves a right-of-way not a panhandle lot. (T. 60). Mr. Kellman indicated that at the time of subdivision Petitioners' requested relief would not go through a development plan but rather would go through a minor subdivision process as the Petitioners are only requesting a subdivision of one lot and therefore there would be no development plan hearing before a hearing officer. (T. 60-61). Mr. Kellman expressed an opinion that relief, pursuant to Section 32-4-409(c) of the BCC would be considered before the Zoning Commissioner or the Board of Appeals on appeal pursuant to a special hearing request pursuant to Section 500.7 of the BCZR. (T. 61). See copy of 32-4-101(v) attached hereto for the Board's reference.

Mr. Kellman expressed an expert opinion that he believed the Petitioners' request for a waiver pursuant to Section 32-4-409(c) of the BCC should be granted by the Board based on several reasons. Mr. Danecker, as an expert title attorney, opined that Petitioners have legal rights in the existing right-of-way and for subdivision of their additional lot. Additionally, they are permitted an additional lot under the property's R.C. 2 zone. Further, the right-of-way at issue has existed since 1910. (T. 62). Additionally, Mr. Kellman opined that one additional lot would not burden the existing right-of-way. (T. 62-63). Further, Mr. Kellman indicated in his opinion that the Petitioners have no burden of proof required for the granting of a waiver under 32-4-409(c) of the BCC to use the right-of-way once he has established that they have the legal right to use the right-of-way as has been done in the above-captioned case. (T. 63).

Mr. Kellman explained that a panhandle would be an access strip held in fee as an extension of a lot, as opposed to a right-of-way, which is not owned by the lot owner. (T. 64). Notwithstanding Mr. Kellman's testimony that the Petitioners are not required to meet

a burden of proof once they establish their ability to use the right-of-way. Mr. Kellman testified that, in his opinion, Petitioners' requested relief met all the requirements of Section 502.1 of the BCZR which apply to Special Exception requests. (T. 64-70).

Mr. Kellman testified if the Board alternately felt that the Petitioners' have panhandle access to their lot, in terms of requesting a variance from Section 32-4-409(e) of the BCC then in his opinion the right-of-way and lot at issue are unique in light of the right-of-way dating back to 1910 before the institution of the Zoning Regulations in 1945 and in addition the length of the right-of-way. (T. 67-68). Further, Mr. Kellman testified that if the variance would not be granted, the Petitioners would suffer practical difficulty because without the right-of-way the Petitioners' landlocked. (T. 68). Mr. Kellman, as Mr. Larson had previously testified, indicated that pursuant to his discussions with the Petitioners, they were willing to accept conditions from the Board to contribute their fair share to paving of the right-of-way and in addition to constructing a t-turn around and fourteen percent grade as recommended by the Baltimore County Department of Public Works. (T. 72-74). Entered in evidence through Mr. Kellman was Exhibit No. 12 permit from the Baltimore County Office of Planning indicating their support of the special hearing and variance request upon the Petitioners providing that the shared driveway meets Public Works and Fire Department regulations. In addition, the Zoning Advisory Comment for the Baltimore County Fire Department was entered before the Board as Petitioners' Exhibit No. 13.

Mr. Kellman, on cross-examination, opined the impact of adding one additional house adjacent to the right-of-way would, in his opinion, have a "very minimal impact" and further Mr. Kellman indicated that that whatever conditions on the right-of-way exist presently, he did not believe that adding an average of 10 daily trips through the right-of-

way would impact the right-of-way. (T. 84-85). In addition, on redirect, Mr. Kellman indicated that he did not spend a lot of time studying the existing conditions of the right-of-way because they exist regardless of the Petitioners' requested relief. Further, Mr. Kellman reiterated in his opinion that once the Petitioners establish his or her ability to use the right-of-way there is no burden of proof listed in the County Code. Even though he testified that in his opinion Petitioners' requested relief would meet the requirements of Section 502.1 of the BCZR he does not believe that they need to be established for the Petitioners to be granted its requested relief on a waiver pursuant to Section 32-4-409(c) of the BCC. (T. 91).

Russel Kahn, Petitioner, also testified and indicated that he has lived on the property which is the subject of the hearing before the Board with his wife, Brenda, for approximately six and one half years. Mr. Kahn described his property as 5.9 acres, 90% wooded, single family residence, with a circular driveway and lot which is rectangular in nature. (T.95). Mr. Kahn indicated that aside from the right-of-way his property is landlocked and has no other means of access to the property or to a public street (T. 97). Mr. Kahn testified from his personal observation about the ability for cars to pass each other along the length of the right-of-way. (T. 102). Mr. Kahn testified that he considered any traffic impact from the granting of his requested relief as negligible because it would result in one residential household with an average estimated daily trips of 10 per day. Further, Mr. Kahn indicated there are already nine or ten lots traversing the right-of-way and the condition of the right-of-way has remained appreciably the same for the last six years. (T. 103). Mr. Kahn testified that he heard the complaints of the neighbors with regard to the condition of the right-of-way at the hearing before the Baltimore County

Zoning Commissioner and that those conditions have existed for approximately the six and one half years he has lived on the property. (T. 103-104). Mr. Kahn testified that if the Petitioners' requested relief, pursuant to Section 32-4-409(c) of the BCC is granted by the Board, he did not feel there would be any harm to the health, safety and welfare of the community. (T. 104).

In the alternative, Mr. Kahn testified that in relation to the variance requested, pursuant to Section 32-4-409(b) of the BCC, that he believed that the right-of-way and lot were unique. (T. 104-105). And, that if the variance was not granted, he would suffer practical difficulty. (T. 105). Mr. Kahn indicated that he would accept the conditions from the Board to pay his fair share to pave the right-of-way, to construct a t-turnaround if required by Public Works, to ensure the right-of-way was at a 14% grade and have trash and mail boxes along Longnecker Road. (T. 106-107).

Richard Deurer, Neal Kravitz, Joan Bildstein, Victoria Kravitz, Nancy Baldwin and Michelle Engelskirch testified in opposition to the Petitioners' requested relief. The Protestants' opposition centered on the existing conditions of the right-of-way, their opposition to development of another lot that would use the right-of-way, the potential impact of the use of the right-of-way by the additional lot and the maintenance costs related thereto.

On cross-examination, the Protestants' witness generally opposed the paving of the right-of-way as several indicated that they believe that paving the right-of-way would lead to further development in the area. Protestants' witness also acknowledged that their present complaints with the right-of-way related to existing conditions. Several of the Protestants' witnesses indicated upon cross-examination that they were happy with the

present conditions of the right-of-way.

David Flowers testified as an expert witness for the Protestants and was accepted by the Board as an expert in urban planning. Mr. Flowers compared the right-of-way to the alley way behind his house which is a townhouse in Loch Raven Village. (T. 198). Mr. Flowers rendered an opinion that the Petitioners' requested relief, in his opinion, would not meet the criteria outlined in Section 502.1 of the BCZR for granting a Special Exception. (T. 204-206). Mr. Flowers concluded his opinion a more comprehensive format with somewhat more detailed information would need to be provided before the Board could grant the applicants' proposed relief. (T. 211).

Upon cross-examination, Mr. Flowers acknowledged that the property at issue is not within the urban rural demarcation line and is, in fact, in a rural area. (T. 212). Further, he acknowledged that his testimony was received by the Board as an urban planner. (T. 212).

Mr. Flowers also acknowledged that the alley way behind his house must have 100 homes which utilize the alley and has a minimum of 100 trips per day as opposed to the 26 trips per day which Neal Kravitz indicate occur on the right-of-way at issue in the Board's case. (T. 213). Mr. Flowers admitted that nothing in Section 32-4-409(c) of the BCC which establishes a standard of proof for the Petitioners for granting of the requested waiver. (T. 213). Further, Mr. Flowers acknowledged that Section 32-4-409(c) of the BCC does not state that the Board should adhere to the criteria of Section 502.1 of the BCZR when considering such relief. (T. 214). Further, he was not aware of any authority that said the Board must consider Section 502.1 of the BCZR when considering relief under Section 32-4-409(c) of the BCC. (T. 214-215). Finally, Mr. Flowers indicated that he believed the right-of-way could be safe in its present condition for those who are familiar

with it as opposed to those who are not familiar with it. (T. 217). He acknowledged that any occupants of the new lot which would result if the Petitioners' relief is granted would be familiar with the right-of-way. (T. 217).

On rebuttal testimony, Russel Kahn testified about efforts he had made in the past with regard to the maintenance and repair of the right-of-way. (T. 234-237).

In addition, Mitchell Kellman testified that in his opinion that the appropriate order for consideration of the Petitioners' requested relief would be submittal of the zoning plan at issue before the Zoning Commissioner or on appeal with the Board of Appeals and subsequently minor subdivision review which would involve more detailed information and more detailed requirements for review by Baltimore County. (T. 242). Mr. Kellman indicated that his belief that the standard of review for the Board's granting of relief under Section 32-4-409(c) of the BCC is simply whether the owner and the successor has the right of use of the right-of-way. (T. 244). Mr. Kellman reiterated his belief that the Board should grant Petitioners' requested relief. (T. 245). Mr. Kellman indicated that, in his opinion, under the applicable Section of 32-4-409(c) of the BCC there is no burden of proof that the Board must consider. (T. 245).

II.

QUESTIONS PRESENTED

1. SHOULD THE PETITIONERS' REQUESTED SPECIAL HEARING TO APPROVE A WAIVER, PURSUANT TO SECTION 500.7 OF THE BALTIMORE COUNTY ZONING REGULATIONS AND SECTION 32-4-409(c) OF THE BALTIMORE COUNTY CODE TO APPROVE AN ACCESS TO A PUBLIC STREET THROUGH AN EXISTING RIGHT-OF-WAY IN LIEU OF A PANHANDLE STRIP BE GRANTED.

2. SHOULD THE PETITIONERS' REQUESTED VARIANCE FROM SECTION 32-4-409(e)(2) OF THE BALTIMORE COUNTY CODE TO ALLOW ACCESS TO THE SUBJECT PROPERTY BY WAY OF A SIXTEEN AND ONE-HALF FOOT PRIVATE RIGHT-OF-WAY THIRTY-EIGHT FEET IN LENGTH FOR A PROPOSED LOT (14223 LONGNECKER ROAD) IN LIEU OF THE MAXIMUM PERMITTED ONE THOUSAND FEET BE GRANTED.

III.

ARGUMENT

1. The Petitioners' requested Special Hearing to approve a waiver, pursuant to Section 500.7 of the BCZR and 32-4-409(c) of the BCC should be granted to permit access to an existing right-of-way in lieu of a panhandle strip.

Section 32-4-409(c) of the BCC states:

(c) *Same; exception.* In cases where a right-of-way has been established before the submission of the Development Plan, the Hearing Officer may approve access to the local street or collector street through the existing right-of-way instead of an in-fee strip.

Pursuant to the plain wording of the above-referenced section, the hearing officer on appeal the Board of Appeals may approve access to the local street or collector street through an existing right-of-way instead of an in-fee strip.

Mark Daneker, expert title attorney, who testified on behalf of the Petitioners, clearly established through his testimony that the Petitioners have not only the right to use the right-of-way for their present lot but also any subdivided lot. Mr. Daneker introduced to the Board the case of *Mahoney v. Devonshire*, 86 Md. App. 624 (1991) in support of the proposition that if a property owner holds the right to use a right-of-way that right also extends to the property owner's use of the right-of-way for any lot which is subdivided from

that property.

Mitch Kellman testified as an expert in planning, zoning and development regulations. He testified that Section 32-4-409(c) of the BCC by its plain wording did not establish a burden of proof for the Petitioners to meet for the granting of the requested relief. Rather, it was Mr. Kellman's opinion that once the Petitioners establish their legal right to use the right-of-way that the waiver should be granted by the hearing authority. Further, Mr. Kellman testified specifically that the granting of the waiver would not be harmful to the health, safety and welfare of the surrounding community. Mr. Kellman noted that Baltimore County establishes an average of 10 trips per day per residential lot and testified that the granting of the Petitioners' requested relief which would lead to that amount of trips per day would not have a detrimental impact on the surrounding community. Mr. Kellman noted that several conditions exist on the right-of-way as of today regardless of the Petitioners' requested relief. He further testified that he did not feel that the additional trips and the granting of the Petitioners' relief would have a detrimental impact on the surrounding area.

Although Mr. Kellman made clear that he did not believe the Board was required to consider the facts in Section 502.1 of the BCZR in relation to the Petitioners' requested relief, nevertheless, in his opinion, the Petitioners' requested waiver would meet all of the criteria of Section 502.1(a) of the BCZR.

Joseph Larson who testified on behalf of Petitioners as a zoning technical consultant testified that if the Petitioners' requested waiver was granted he did not believe there would be a detrimental affect on the health, safety and welfare of the surrounding community. Mr. Larson noted as a basis for his opinion that the County's residential

standard of indicating the average trips per day generated from a residential lot would be 10 trips per day.

Russel Kahn, Petitioner, also testified that he did not believe that the granting of the Petitioners' requested waiver would have a detrimental affect on the health, safety and welfare of the surrounding community. Mr. Kahn's testimony was supported by his wife, Brenda Kahn.

Protestants' testimony centered on the problems they contended which are existing conditions with regard to the right-of-way. Although the Protestants were clear that they wanted no more subdivision along the right-of-way, they presented no specific evidence that traffic generated from the Kahns' proposed lot would overburden the easement. The Protestants rather simply complained about existing conditions and indicated that they wanted to maintain the status quo, therefore allowing no more traffic to be added to the right-of-way.

Protestants' testimony also raised the issue of whether or not the Petitioners' relief would establish a precedence for additional subdivision, however, Mitch Kellman testified on behalf of the Petitioners that any additional use of the right-of-way would have to come through a public hearing and could be scrutinized on its own merits at the time of any such request.

It should be noted that the opinions of David Flowers, as an expert witness were accepted by the Board as an urban planner, on behalf of the Protestants. The subject property and right-of-way, however, are zoned R.C. 2 and are located outside the urban rule demarcation line in the rural area of Baltimore County. Accordingly, under the area of expertise that Mr. Flowers was accepted by the Board of Appeals, his opinions must be

discounted in relation to the Petitioners' requested relief.

Mr. Flowers admitted that he had no authority to support the proposition that for the Petitioners to be granted the requested waiver that they needed to meet the requirements of Section 502.1 of the BCZR. Notwithstanding the above, Mr. Flowers' testimony that the Petitioners' requested relief does not meet the elements of that section 502.1 of the BCZR should be discounted in light of his testimony being received as an urban planner as noted above.

In terms of comparison of the right-of-way at issue in this case with the alley behind Mr. Flowers' house not only is the alley way in an urban setting with likely barriers to passing such fences, curbs, telephone poles as compared to the rural setting of the right-of-way with opportunities for passing. In addition, the amount of trips per day is approximately four times as many on the alley way.

When the testimony and evidence as a whole are reviewed before the Board, it is clear that the Petitioners' requested waiver, pursuant to Section 32-4-409(c) of the BCC, should be granted.

2. Petitioners' requested variance, pursuant to Section 32-4-409(e)(2) of the BCC should be granted.

Section 32-4-409(e)(2)(3) of the BCC states:

(e) Length of panhandle in DR and RC zones....

(2) In an RC zone, the panhandle length may not exceed 1,000 feet.

(3) The maximum permitted length of a panhandle is subject to variance under §307 of the Baltimore County Zoning Regulations.

If the Board does not grant the waiver requested by Petitioners, pursuant to Section 32-4-409(c) of the BCC, then in the alternative the evidence before the Board supports the granting of a variance, pursuant to Section 32-4-409(e)(2) of the BCC.

Petitioners' witnesses, Joe Larson, Mitchell Kellman, and Russel Kahn, all testified that the right-of-way and Petitioners' lot at issue in the above-captioned case are unique. The Petitioners' witnesses indicated that the fact that the right-of-way was created in 1910, prior to the BCZR in 1945 and has been in continuing use by lot owners make the right-of-way and lot unique.

In addition, the Petitioners' witnesses, Joe Larson, Mitchell Kellman and Russel Kahn all testified that the Petitioners would suffer practical difficulty if the requested variance is not granted in light of the fact that the Petitioners' lot meets the density requirements for subdivision under the R.C. 2 regulations, however, the property is landlocked and would not be subdivided without the use of the right-of-way.

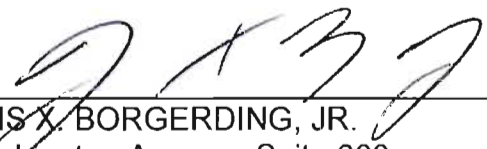
The evidence on the record before the Board supports a finding of compliance with the requirements of *Cromwell v. Ward*, 102 Md. 691 (1995), for the granting of the Petitioners' requested variance.

Accordingly, the Petitioners' requested waiver of Section 32-4-409(c) of the BCC should be granted or in the alternative the Petitioners' requested variance, pursuant to Section 32-4-409(e)(2) of the BCC should be granted.

CONCLUSION

In light of the above, the Petitioners' requested Special Hearing to approve a waiver, pursuant to Section 32-4-409(c) of the BCC should be **GRANTED**. In the alternative, the

Petitioners' requested Variance, pursuant to Section 32-4-409(e)(2) of the BCC should be
GRANTED.



FRANCIS X. BORGERDING, JR.
409 Washington Avenue, Suite 600
Towson, Maryland 21204
410-296-6820
ATTORNEY FOR PETITIONERS
Russel Kahn and Brenda Kahn

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24 day of July, 2009, a copy of
the foregoing was mailed, first-class postage prepaid, to:

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, Maryland 21286



FRANCIS X. BORGERDING, JR.

10/28/08

IN RE: PETITIONS FOR SPECIAL HEARING *
AND VARIANCE
E/S Longnecker Road, 390' N of *
Piney Grove Road
(142253 & 14225 Longnecker Road) *
4th Election District
3rd Council District *

Russel A. Kahn, et ux *
Petitioners

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 08-425-SPHA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owners of the subject property, Russel A. Kahn and his wife, Brenda Kahn. The Petitioners request a special hearing to approve a waiver, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) and Section 32-4-409(c) of the Baltimore County Code (B.C.C.), development regulations, to permit access to a street (Longnecker Road to Piney Grove Road) through an existing right-of-way in lieu of a panhandle strip. In addition, Petitioners request a variance from Section 32-4-409(e)(2) to allow access to the subject property by way of a 16.5-foot private right-of-way of 3,420 feet for a proposed lot (14223 Longnecker) in lieu of the maximum permitted 1,000 feet. The subject property and requested relief are more particularly described on the revised site plan submitted which was accepted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the requests were the Joseph L. Larson, consultant, with Spellman, Larson and Associates, Inc., who prepared the site plan for this property, and Russel Kahn, property owner. A number of residents from the surrounding "Longnecker Road extended" community appeared in opposition to the requests, namely Neil and Victoria Kravitz, Douglas R. Grice, Mark E. and Michelle R. Engelskirch, Nancy L.

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Baldwin and Richard R. Deurer, and F. Evans and Joan K. Bildstein, adjacent property owners. The Protestants also submitted letters from George P. Mahoney, Jr., Lewis and Laury Scharff and Gary and Judy Siegel, who were unable to appear but oppose the requested subdivision and access to the Petitioners property.

As a preliminary matter, it should be noted that this hearing initially commenced on May 20, 2008. Mr. Larson moved for a continuance at that time to address adverse Zoning Advisory Committee (ZAC) comments and letters received from the community. Despite the passage of five (5) months, there remained confusion at the October 21, 2008 hearing regarding the Revised Petition for Variance on behalf of the Petitioners and Protestants concerning the nature and scope of the request. The Petitioners believe the private driveway should be measured from its departure from the centerline of Longnecker Road to the proposed lot (3,420 feet). The Protestants, however, contend that the County does not maintain any portion of Longnecker Road and that the measurement should therefore commence at Piney Grove Road, a distance of 390 feet further south of the use-in-common private driveway (3,810 feet). A review of the subject right-of-way agreement(s) dated February 19, 1910 recorded among the Land Records of Baltimore County in Liber W.P.C. 359, Folio 52, and its predecessor in Liber J.B. No. 57, Folio 312, dated December 17, 1870, is instructive, and I shall therefore credit the testimony of the Protestants in this regard finding the Variance request should more correctly reflect a total access length of 3,810 feet.

Testimony and evidence offered disclosed that the Petitioners own 5.94 acres of land, located on the northeast side of Piney Grove Road, in the Reisterstown/Glyndon area of the County. The subject property is a rectangularly shaped parcel, zoned R.C.2 and improved with a two-story family home built in 2006 that is centrally positioned on the lot and set back some 2,940 feet east of Longnecker Road. The Petitioners (Kahns) are relative newcomers to this

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Longnecker Road extended community area having acquired the property in March 2006. They reside at 14225 Longnecker Road (Parcel 102 on Maryland Tax Map 32) and propose to subdivide their lot into two (2) lots marked on the site plan (Petitioners' Exhibit 1) as 14223 and 14225 Longnecker Road. The plat shows an existing dwelling at 14225 and a proposed dwelling to be built on a new one-acre lot located on the property's northeast corner to be known as 14223 Longnecker. Both lots would be served by the existing access driveway that extends from Piney Grove Road to the Petitioners existing house and 13 other lots (10 of which are improved with single-family dwellings, some of which historically date back as early as circa 1851 and several others in the early 1900's). Mr. Larson testified that a subdivision request is not currently pending. However, he stated, there would be a subdivision request if the relief requested in this case is granted. He maintains that under the R.C.2 zoning governing the property, the Kahns are entitled to subdivide their lot. The issue here is whether or not the present use in common access driveway can accommodate an additional lot. Mr. Larson asserts that the request for the variance as to the length is "academic" because the existing driveway already exceeds the length limit and the addition of one more lot would have no affect.¹

The width of the common easement area is 16.5 feet, 8 feet of which is currently covered with well-compacted crusher run as shown on the many photographs submitted by Mr. Bildstein and collectively marked as Protestants Exhibit 3. None of the lots have an in-fee strip of 10 feet as required for three (3) or more lots sharing a panhandle driveway. Mr. Larson testified while

¹ Mr. Larson did not provide evidence that the subject property was unique or patently different than any of the other lots in this development. The uniqueness and practical difficulty standards are required by B.C.Z.R. Section 307 and *Cromwell v. Ward*, however, in this case, the Petitioners rely on the fact that the current length of the panhandle access already extends to the existing and proposed dwelling lots. It is in their opinion a nonconforming use and a variance for this use is therefore not technically necessary. It exists, albeit nonconforming to current codes regarding the length of a panhandle driveway. Most of the entire Longnecker Road extended was planned prior to the existing panhandle code and does not achieve the code's main objectives stated in B.C.C. Section 32-4-409(a)(1)(i)-(iv).

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the full 16.5-foot width could be paved, it was not necessary for one (1) new dwelling. On cross-examination, Mr. Larson testified that a 16.5-foot wide paved surface would be an improvement to the current situation; however, the expense (estimated at \$35,000 plus) would have to be shared equally by all the use-in-common lot owners. He also testified that a 30-foot x 70-foot T-turnaround could be constructed on the Petitioners property but this is not shown on the site plan submitted (Petitioners' Exhibit 1). Mr. Larson acknowledged that no application for a waiver of the width requirement had been made with the Planning Director. Only a Special Hearing was requested.

The Protestants all testified and first presented Neil Kravitz as a witness. The Kravitz live at 14207 Longnecker Road, the first lot with access to the right-of-way located closest to Piney Grove Road (See photographs received as Protestants Exhibits 1A and 1B illustrating that this property is the "gateway" for other lots and homes along the common driveway known as Longnecker Road. Mr. Kravitz testified that he sees all traffic traveling on the road that is now deteriorating and can't bear any increase in use. He outlined the number of families residing on the 14,000 block of Longnecker Road and the vehicular traffic that use the common access driveway on a daily basis between the hours of 7:30 AM to 6:00 PM as follows:

<u>Property and Owners</u>	<u>Number of Vehicles and Drivers</u>
14207 - Neil S. Kravitz	2
14209 - Vernon R. Walter, et al	2
14211 - Evans F. Bildstein, et ux	2
14213 - Doulgas R. Grice	2
14217 - Mark E. Engelskirch, et ux	2
14219 - Richard R. Deurer & Nancy L. Baldwin	2
14225 - Russel A. Kahn, et ux	2 + 3 employee vehicles
14230 - Lewis A. Scharff, et ux	4 (including 2 teenage children & 1 secretary)
14240 - Gary Siegel, et ux	4 (including 2 adults, daughter & her husband)

TOTAL - 26 Vehicles x 10 Average Daily Trips

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Other vehicles using Longnecker Road on a daily basis:

- Family and friends of the above
- Farm equipment including agricultural trucks to move harvested crops
- Delivery vehicles including: UPS, FedEx (Express/Ground/Home/Freight) and DHL

Evans Bildstein, a long-time resident of Longnecker Road (since 1971) presented his deed and photographs (Protestants Exhibits 2 and 3). He stated that the road in the past could adequately support five (5) homes but now with the addition of increased homes and lot owners, the road is degrading. He has for 37 years plowed snow and assumed primary maintenance responsibilities. He says he's getting "up in years" and no longer can keep up with these demands due to the continuing roadbed erosion problems. The others in attendance discussed the need of protecting the areas natural, historic and scenic resources and the failed past attempts in reaching a cost-sharing agreement and having the roadbed paved.

The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. Of note, comments were received from the Bureau of Development Plans Review dated March 28, 2008. Dennis A. Kennedy, P.E., the Bureau's Supervisor, indicated that the driveway would need to be paved, provide a 30' x 70' tee-turnaround at the end of the driveway and have a title attorney certify that the Petitioners have the right to burden the existing right-of-way. There is no evidence in the record that any of these recommendations can or will be provided. Panhandle driveways and existing right-of-ways – in lieu of in-fee strips – pose problems for ordinary and emergency vehicles and are limited by B.C.C. Section 32-4-409(a) to assure new lots *will not conflict with efforts to provide for public safety and general welfare*. There is no evidence in the record to support this Commission's granting of a variance. Therefore, the Petitioners having failed to establish the elements of their case and demonstrate by a burden of proof the elements required by B.C.Z.R. Section 307, I shall deny their request.

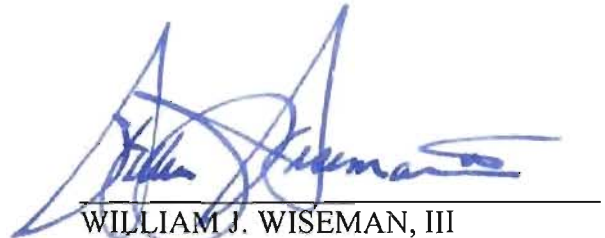
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Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth above, the relief requested shall be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County, this 28th day of October 2008, that the Petitioners' request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) and Section 32-4-409(c) of the Baltimore County Code (B.C.C.), development regulations, to allow another building lot to access a street through an existing right-of-way in lieu of a panhandle strip, be and is hereby DENIED; and

IT IS FURTHER ORDERED that the Petition for Variance from Section 32-4-409(e)(2) of the Baltimore County Code (B.C.C.), to approve access to the subject property by way of a 16.5-foot private use-in-common right-of-way of 3,810 feet for a proposed lot in lieu of the maximum permitted 1,000 feet in a R.C. zone, in accordance with Petitioners' Exhibit 1, be and is hereby DENIED.

Any appeal of this Order shall be taken within thirty (30) days in accordance with Baltimore County Code (B.C.C.) Section 32-3-401.


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

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Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

14223
for the property located at 14225 Longnecker Road
which is presently zoned RC-2

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

REFER TO ATTACHED SHEET

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

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

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

Contract Purchaser/Lessee:

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

Attorney For Petitioner:

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

Legal Owner(s):

Russel A. Kahn
Name - Type or Print
Signature
Brenda Kahn
Name - Type or Print
Signature
14225 Longnecker Road 410-429-5040
Address Telephone No.
Glyndon MD 21136-4845
City State Zip Code

Representative to be Contacted:

Joseph L. Larson
Name
222 Bosley Avenue 410-823-3535
Address Telephone No.
Towson MD 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1 hr

UNAVAILABLE FOR HEARING

Case No.

425 SP4A

REV 9/15/98

COPIES RECEIVED FOR FILING

Date 10-28-98

By [Signature]

Reviewed By [Signature] Date 3/12/08

ZONING PETITION FOR SPECIAL HEARING
KAHN PROPERTY
14223 & 14225 LONGNECKER ROAD

To allow another building lot to use the 16.5' private driveway for access to Longnecker Road.



REVISED CASE # 08-425 SPHA

Petition for Variance

to the Zoning Commissioner of Baltimore County
for the property located at 14223&14225 Longnecker Road
which is presently zoned RC-2

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)

Refer to 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)

Argument in support of this Variance will be fully and thoroughly presented at the Hearing.

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

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

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

Contract Purchaser/Lessee:

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):

Russel Kahn
Name - Type or Print _____
Signature _____
Brenda Kahn
Name - Type or Print _____
Signature Brenda Kahn
14225 Longnecker Road 410-429-5040
Address Telephone No.
Glyndon MD 21136-4845
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. 08-425-SPHA

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

REV 9/15/98

Date 10-28-08

Reviewed By _____

Date _____

By _____

REVISED

ZONING PETITION FOR VARIANCE
KAHN PROPERTY
14223 & 14225 LONGNECKER ROAD

^{BCC}
Variance from ~~BCZR~~ Section 32-4-409(e)

To approve access to the subject property by way of a 16.5' private driveway 3420' more or less in length in lieu of the allowed 1000' in length.



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 14223&14225 Longnecker Road
which is presently zoned RC-2

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)

Refer to 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)

Argument in support of this Variance will be fully and thoroughly presented at the Hearing.

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

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

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

Contract Purchaser/Lessee:

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):

Russel Kahn
Name - Type or Print Russel Kahn
Signature _____
Brenda Kahn
Name - Type or Print Brenda Kahn
Signature _____
14225 Longnecker Road 410-429-5040
Address Telephone No.
Glyndon MD 21136-4845
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

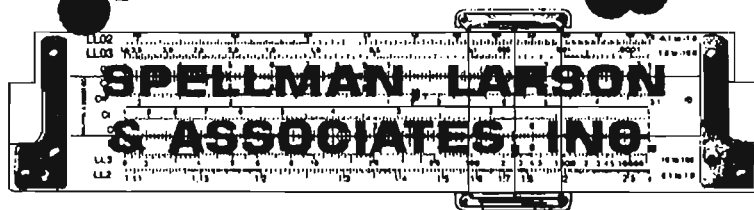
OFFICE USE ONLY

Case No. 425 SPNA
ESTIMATED LENGTH OF HEARING 1.4 hr
UNAVAILABLE FOR HEARING _____
Date 10-28-08 Reviewed By IL Date 3/12/08
By IL

ZONING PETITION FOR VARIANCE
KAHN PROPERTY
14223 & 14225 LONGNECKER ROAD

Variance from BCZR Section 32-4-409(e)

To approve access to the subject property by way of a 16.5' private driveway 2920' more or less in length in lieu of the allowed 1000' in length.



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 PETITION
FOR SPECIAL HEARING & VARIANCE
KAHN PROPERTY
14223&14225 LONGNECKER ROAD**

BEGINNING for the same at the intersection of Piney Grove Road and Longnecker Road and running along the centerline of Longnecker Road 390' more or less to the center line of a private 16.5' right of way thence 2920.00 feet more or less from the center line of Longnecker Road to the place of beginning of the subject property thence running along the center line of the 16.5' private right of way for lines of division along firstly the center line of the 16.5' private right of way north 49 degrees 53 minutes 30 seconds east 120.67 feet north 31 degrees 53 minutes 30 seconds east 189.12 feet north 40 degrees 06 minutes 00 seconds east 337.02 feet north 47 degrees 34 minutes 00 seconds east 29.05 feet to a point in the center line of the said 16.5' private right of way thence for lines of division south 42 degrees 49 minutes 40 seconds east 445.18 feet thence south 54 degrees 12 minutes 30 seconds west 86.63 feet thence south 47 degrees 30 minutes 20 seconds west 576.03 feet thence north 43 degrees 35 minutes 00 seconds west 334.00 feet to the place of beginning.

Said property being known as 14223&14225 Longnecker Road.

Containing 5.94 acres of land more or less.

425



BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **11408**

Date: **3/12/08**

PAID RECEIPT

BUSINESS ACTUAL TIME
 3/12/2008 3/12/2008 09:39:45

REC-001 WALKIN JRIC JNR
 >>RECEIPT # 367011 3/12/2008 OFLH

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	006			6150				130.00

Dept 5 528 ZONING VERIFICATION
 011408

Recpt Tot \$130.00
 \$130.00 Cr \$1.00 Cr
 Baltimore County, Maryland

Total: **130.00**

Rec From: Gfellman + Carson

For: Rea SPH/VIA MAIL \$ 65.00 EA

14223 + 14225 Linnacker RD

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**

NOTICE OF ZONING HEARING

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

Case: # 08-425-SPHA

14223 & 14225 Longnecker Road

E/side of Longnecker Road, 390 feet north of Piney Grove Road

4th Election District - 3rd Councilmanic District

Legal Owner(s): Russel & Brenda Kahn

Special Hearing: to allow another building lot to use the 16.5-foot private driveway for access to Longnecker Road. **Variance:** to approve access to the subject property by way of a 16.5 foot private driveway 2920 feet more or less in length in lieu of the allowed 1000 feet in length.

Hearing: Tuesday, May 20, 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 Office at (410) 887-4386.

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

JT 5/6/08 May 6

172332

CERTIFICATE OF PUBLICATION

5/8/2008

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 5/6/2008.

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

S. Wilkins

LEGAL ADVERTISING

CERTIFICATE OF POSTING

ATTENTION: KRISTEN MATTHEWS

DATE: 05/01/08

Case Number: 08-425-SPHA

Petitioner / Developer: RUSSEL & BRENDA KAHN~JOSPEH LARSON

Date of Hearing (Closing): MAY 20, 2008

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
14223 & 14225 LONGNECKER ROAD

The sign(s) were posted on: 04/30/08



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 - 666 - 5366
(Telephone Number of Sign Poster)

RECEIVED

APR 15 2009

BALTIMORE COUNTY
BOARD OF APPEALS

Requested: February 4, 2009

APPEAL SIGN POSTING REQUEST

CASE NO.: 08-425-SPHA

14423 & 14425 Longnecker Road

4th ELECTION DISTRICT

APPEALED: 11/26/08

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

10-E12
16 E1, F3

Attention: Theresa Shelton
Administrator

CASE NO.: 08-425-SPHA

LEGAL OWNER: Russel Kahn

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

14423 & 14425 LONGNECKER ROAD
E/S LONGNECKER ROAD, 390' N OF PINEY GROVE ROAD

The sign was posted on 4-13-09, 200 .

By: M Stuart Kelly
(Signature of Sign Poster)

M Stuart Kelly
(Print Name)

PHOTOGRAPHIC RECORD

Citation/Case No.: 08-425 SPHA 144234 14425 Longnecker 'Rd
Date of Photographs: 4.15.09



I HEREBY CERTIFY that I took the 2 (number of photos) photographs set out above, and that these photographs fairly and accurately depict the condition of the property that is the subject of the above-referenced citation/case number on the date set out above.

M. H. H. H. H.
Enforcement Officer

PHOTOGRAPHIC RECORD

Citation/Case No.: 08-425 SPHA 14423 + 14425 Long Neck Rd
Date of Photographs: 4-16-09



I HEREBY CERTIFY that I took the 2 (number of photos) photographs set out above, and that these photographs fairly and accurately depict the condition of the property that is the subject of the above-referenced citation/case number on the date set out above.

M. Stuart Kelly
Enforcement Officer

**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: 425 SPHA

Petitioner: RUSSEL KAHN

Address or Location: 14225 LONGNECKER RD.

PLEASE FORWARD ADVERTISING BILL TO:

Name: RUSSEL KAHN

Address: 14225 LONGNECKER RD.

GLYNDON, MD. 21136-4845

Telephone Number: 410-427-5040

Revised 2/20/98 - SCJ

TO: PATUXENT PUBLISHING COMPANY
Tuesday, May 6, 2008 Issue - Jeffersonian

Please forward billing to:
Russel Kahn
14225 Longnecker Road
Glyndon, MD 21136

410-429-5040

NOTICE OF ZONING HEARING

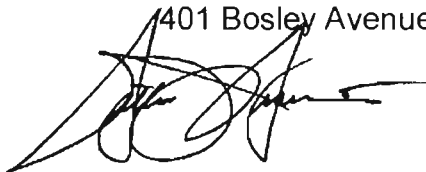
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 08-425-SPHA

14223 & 14225 Longnecker Road
E/side of Longnecker Road, 390 feet north of Piney Grove Road
4th Election District – 3rd Councilmanic District
Legal Owners: Russel & Brenda Kahn

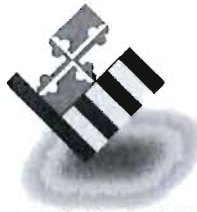
Special Hearing to allow another building lot to use the 16.5-foot private driveway for access to Longnecker Road. Variance to approve access to the subject property by way of a 16.5 foot private driveway 2920 feet more or less in length in lieu of the allowed 1000 feet in length.

Hearing: Tuesday, May 20, 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

April 1, 2008
TIMOTHY M. KOTROCO, Director
Department of Permits and
Development Management

NOTICE OF ZONING HEARING

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

CASE NUMBER: 08-425-SPHA

14223 & 14225 Longnecker Road

E/side of Longnecker Road, 390 feet north of Piney Grove Road

4th Election District – 3rd Councilmanic District

Legal Owners: Russel & Brenda Kahn

Special Hearing to allow another building lot to use the 16.5-foot private driveway for access to Longnecker Road. Variance to approve access to the subject property by way of a 16.5 foot private driveway 2920 feet more or less in length in lieu of the allowed 1000 feet in length.

Hearing: Tuesday, May 20, 2008 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

A handwritten signature in black ink, reading "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Russel & Brenda Kahn, 14225 Longnecker Road, Glyndon 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 MONDAY, MAY 5, 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.



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

NOTICE OF POSTPONEMENT

10/28/2008 – Z.C.'s Order in which requested zoning relief was **DENIED**.

Theresa R. Shelton, Administrator

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



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

NOTICE OF RE-ASSIGNMENT

John E. Beverungen, County Attorney
Nancy West, Assistant County Attorney



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

NOTICE OF DELIBERATION

John E. Beverungen, County Attorney
Nancy West, Assistant County Attorney



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

May 12, 2008

Russel & Brenda Kahn
14225 Longnecker Rd.
Glyndon, MD 21136-4845

Dear Russel & Brenda Kahn:

RE: Case Number:2008-0425-A , Address

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 12, 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 Ave. Ste. B-3, Towson, MD 21204



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 26, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: March 24, 2008

Item Number: 425,436

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: March 24, 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. 8-425-SPHA
14223 & 14225 LONGNECKER ROAD
KAHN PROPERTY
SPECIAL HEARING
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. 8-425-SPHA.

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

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410.545.0300 • www.marylandroads.com

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: April 9, 2008

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

SUBJECT:

INFORMATION:

Item Number: 08-425

Petitioner: 14223 & 14225 Longnecker Rd

Zoning: RC 2

Requested Action: Special Hearing and Variance

The petitioner requests a special hearing to allow another building lot to use the 16.5-foot driveway for access to Longnecker Rd. The petitioner is also requesting a variance from Section 32-4-409(e) of the BCZR to approve access to the subject property by way of a 16.5-foot driveway of 2,920 feet more or less in length in lieu of the allowed 1,000 feet in length.

SUMMARY OF RECOMMENDATIONS:

The Office of Planning supports both the special hearing and the variance for the above properties provided that the following conditions are met.

1. That the shared driveway meets all Public Works and Fire Department regulations.
2. That devolution of title can show when the lot was created and that it will meet all the minor subdivision requirements for RC2.

Prepared By:

Cindis Murray

Division Chief:

AFK:LL:C

Lynne Lenham

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: File **DATE:** May 21, 2008

FROM: William J. Wiseman, III
Zoning Commissioner 

SUBJECT: Petition for Special Hearing and Variance
E/Side of Longnecker Road, 390' N of Piney Grove Road
(14223 & 14225 Longnecker Road)
4th Election District – 3rd Council District
Russel & Brenda Kahn - Petitioners
Case No. 08-425-SPHA

At the onset of the hearing, Joseph L. Larson of Spellman, Larson and Associates, Inc., on behalf of Mr. Russel Kahn, who was in attendance, made a Motion for Continuance. The basis of the Motion was the adverse Zoning Advisory Committee (ZAC) comments that were received from DEPRM, Office of Planning, Development Plans Review, and letters received from the community. In view of this Office's telephone outage and the community not being advised of the issues (ZAC comments given to the community members who appeared), the matter was continued with the following understanding:

1. If the Petitions do not materially change, Mr. Kahn will re-post the property by way of marking the present sign giving notice of the new date. This is appropriate since all of the interested citizens live on this lane and pass the sign daily.
2. Mr. Larson and the Petitioners will work with the community and resolve issues with them as well as with the reviewing agencies prior to this case being rescheduled.
3. When a new date is selected, it will be a date that is convenient to all parties that appeared on May 20, 2008. Mr. Larson's letter requesting the matter to be re-assigned should reflect that this is so.
4. When Permits and Development Management assigns a new date, this file should be returned to the Zoning Commissioner's Office promptly and a letter to all parties will announce the new hearing date. The file is being returned at this time in view of the anticipated move and the significant delay of time which may be involved in order to address the outstanding issues.

WJW:dlw

c: Kristen Matthews, DPDM

BALTIMORE COUNTY, MARYLAND

5-20-08

Inter-Office Correspondence



RECEIVED
JUL 11 2008

BY:.....

TO: Timothy M. Kotroco
FROM: Dave Lykens, DEPRM - Development Coordination
DATE: July 11, 2008
SUBJECT: Zoning Item # 08-425-SPH
Address 14223-14225 Longnecker Road

Zoning Advisory Committee Meeting of March 31, 2008

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).
- _____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

The subject property to be served by the proposed use in common driveway is within 100 feet of a Use III stream and is predominantly forested. DEPRM will not approve any subdivision or development of this property until the aforementioned regulations are met. – *Glenn Shaffer; Environmental Impact Review*

Agricultural Preservation: Advisory only comment: Do not oppose this petition but as a rule for not support variances that enables additional development in Agricultural Preservation Areas. – *W.S. Lippincott; Agricultural Preservation*

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED
MAY 19 2008

BY:

TO: Timothy M. Kotroco
FROM: Dave Lykens, DEPRM - Development Coordination JWL
DATE: May 19, 2008
SUBJECT: Zoning Item # 08-425-SPH
Address 14223-14225 Longnecker Road

Zoning Advisory Committee Meeting of March 31, 2008

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).
- _____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

The subject property to be served by the proposed use in common driveway is within 100 feet of a Use III stream and is predominantly forested. DEPRM will not approve any subdivision or development of this property until the aforementioned regulations are met. – *Glenn Shaffer; Environmental Impact Review*

The request for a variance to permit a ½ mile long driveway to a new lot is inconsistent with the County's established policies and plans to preserve and protect the natural resources of the County including farmland and to foster conditions suitable for agriculture by reducing the scale and intensity of development.

Recommendation: Do not support the request. – *W.S. Lippincott; Agricultural Preservation*

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: March 28, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For March 31, 2008
Item No. 08-425

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment(s).

If access is granted through the existing driveway, we recommend that the driveway shall comply with the following:

- Paved driveway
- A 30 x 70 tee-turn around at the end of the driveway.
- Max of 14% grade on driveway
- Trash and mail box at Longnecker Road
- In addition the developer shall have a title attorney certify that he has the right to burden existing right-of-way.

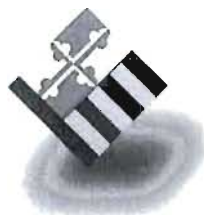
DAK:CEN:clw

cc: File

ZAC-ITEM NO 08-425-03282008.doc

* * * * *

People's Counsel for Baltimore County



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
February 2, 2009
*Department of Permits and
Development Management*

Russel Kahn
Brenda Kahn
14225 Longnecker Road
Glyndon, MD 21136-

Dear Mr. & Mrs. Kahn:

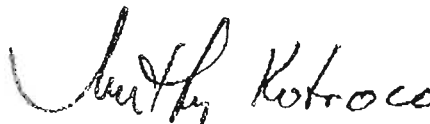
RE: Case: 08-425-SPHA, 142253 & 14225 Longnecker Road

Please be advised that an appeal of the above-referenced case was filed in this office on December 2, 2008 on your behalf from Joseph Larson. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,


Timothy Kotroco
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Joseph Larson, 222 Bosley Avenue, Ste. B-3, Towson 21204
Mr. & Mrs. Kravitz, 14207 Longnecker Road, Boring 21020
Douglas Grice, 14213 Longnecker Road, Glyndon 21071
Mr. & Mrs. Engelskirch, 14215 Longnecker Road, Reisterstown 21136
Nancy Baldwin, Richard Deurer, 14219 Longnecker Road, Reisterstown 21136
F. Evans & Joan Bildstein, 14211 Longnecker Road, Glyndon 21071
George Mahoney, Jr., 13634 Longnecker Road, Glyndon 21071
Mr. & Mrs. Scharff, 14230 Longnecker Road, Glyndon 21071
Mr. & Mrs. Siegel, 14240 Longnecker Road, Glyndon 21071

APPEAL

Petition for Special Hearing & Variance
14223 & 14225 Longnecker Road
E/s Longnecker Rd., 390' N of Piney Grove Road
4th Election District – 3rd Councilmanic District
Legal Owners: Russel Kahn

Case No.: 2008-0425-SPHA

- ✓ Petition for Special Hearing & Variance (March 12, 2008)
- ✓ Zoning Description of Property
- ✓ Notice of Zoning Hearing (April 1, 2008)
- ✓ Certification of Publication (The Jeffersonian – May 6, 2008)
- ✓ Certificate of Posting (April 30, 2008) by Linda O'Keefe
- ✓ Entry of Appearance by People's Counsel (March 24, 2008)
- ✓ Petitioner(s) Sign-In Sheet – 2 Sheets

Protestant(s) Sign-In Sheet - None

- ✓ Citizen(s) Sign-In Sheet – 2 Sheets
- ✓ Zoning Advisory Committee Comments
- ✓ Petitioners' Exhibit
 1. Amended Site Plan (7/3/2008)
- ✓ Protestants' Exhibits:
 - ✓ 1. Photos
 - ✓ 2. Deed (Rohde to Bildstein)
 - ✓ 3. Photos of Private Driveway
 - ✓ 4. MD Dept. of Assessments and Taxation

Miscellaneous (Not Marked as Exhibit)

- ✓ 1. Letter dated April 23, 2008 from George Mahoney, Jr.
- ✓ 2. Letter dated May 14, 2008 from Mr. & Mrs. Engelskirch, Ms. Baldwin and Mr. Deurer
- ✓ 3. Letter dated October 21, 2008 from Mr. & Mrs. Scharff & Mr. & Mrs. Siegel
- ✓ Zoning Commissioner's Order (DENIED – October 28, 2008)
- ✓ Notice of Appeal received on November 26, 2008 from Joseph Larson

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
See Attached

date sent February 3, 2009, klm

RECEIVED
FEB - 3 2009
BALTIMORE COUNTY
BOARD OF APPEALS

BW 5/20
8-425-
SPHA

Rosbrian
13634 Longnecker Road
Glyndon, Maryland 21071
410-833-5969

RECEIVED
APR 28 2008

BY:.....

April 23, 2008

Mr. William J. Wiseman, III
Zoning Commissioner
Baltimore County Office of Zoning
400 Washington Avenue
Courthouse
Towson, MD 21204

RE: Minor Sub Proposal on Longnecker Road

Dear Commissioner Wiseman:

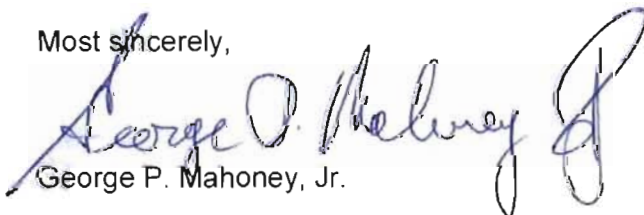
I would like to register my opposition to the minor subdivision at 14223 Longnecker. While I realize the special hearing has been scheduled for May 20, 2008, I will be out of the country and unable to attend. However, I find this issue much too important to leave unaddressed.

As the owner of Rosbrian, I strongly support the Valleys Planning Council's efforts to conserve open space and protect our natural, historic and scenic resources. Another "minor" subdivision is in direct conflict of this commitment. I actively oppose unnecessary overdevelopment of this area.

Be advised since 14223 Longnecker's back lot has no direct access to the road, I am against allowing another building lot to use the front lots 16.5' private driveway; and I strongly oppose granting a variance to allow a much longer driveway to the back lot (2,920 feet in lieu of the allowed 1,000 feet length).

Thank you, commissioner, for considering my areas of concern.

Most sincerely,



George P. Mahoney, Jr.

GPM:amk

cc: Thomas H. Bostwick, Deputy Zoning Commissioner
Teresa Moore, Executive Director, The Valleys Planning Council, Inc.

May 14, 2008

The Office of the Zoning Commissioner
Baltimore County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Kristen Matthews

SUBJECT: Zoning Hearings - 14223 & 14225 Longnecker Road, Location: 3rd Council District

Date/Time: 05/20/2008 9:00 AM - 05/20/2008 10:00 AM

CASE NUMBER: 8-425-SPHA Location: East side Longnecker Road, 390 feet north of Piney Grove Road. 4th Election District

Legal Owners: Russel A. and Brenda Kahn

Dear Zoning Commissioner,

We are FOUR concerned citizens and taxpayers who have lived in the 'Longnecker Road extended' community for 10+ years, respectively. Unfortunately we are unable to attend the above referenced zoning hearing. We are writing to express our opposition to the zoning variance for 14223 and 14225 Longnecker Road. Even though the current property owners' stated intention is not to develop now or in the foreseeable future, the subdivision approval would open the door for additional building on this lot, 14223 Longnecker Road, which we oppose for the following reasons:

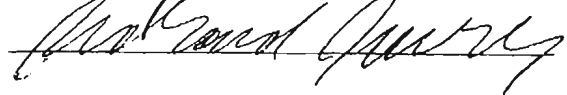
1. The 'Longnecker Road extended' community is a small, quiet, rural community—not intended to be a high-density housing environment. The proposed subdivision would cram another house between and very near three existing dwellings, which would detract from the original intent of the neighborhood—and the reason many homeowners chose to move to this portion of Longnecker Road.
2. The current road for the 'Longnecker Road extended' community is self-maintained by the residents—not by Baltimore County. The road is already a hefty burden for the residents (financially and effort wise), many of whom are 'getting up in years' and can no longer contribute to road maintenance. This subdivision has the potential to lead to additional housing and additional traffic on the road, which we feel would put undue burden (financially and effort wise) on the residents responsible for maintaining the road.
3. The current property owners at 14225 Longnecker Road are running a cabinet-making business that has already increased traffic due to daily use by employees and large truck deliveries. This narrow, dirt road was never intended to endure such a heavy traffic load, and this load has already had a negative impact on the road and increased the maintenance requirements for current residents.

While we realize development will occur, the current zoning is in place to protect over development—and we agree with the current zoning. In addition, we believe that further building using the current access road is a disastrous plan that will lead to greater hardships for the entire 'Longnecker Road extended' community. We may feel differently if Baltimore County, with greater resources and manpower, owned and maintained the road—but the burden is too great for our community to bear.

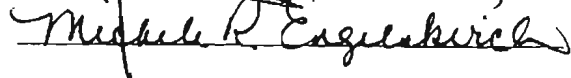
We ^{implore} ~~employ~~ the Zoning Commissioner to listen to the opposition from the community and deny the proposed variance.

Thank you,

Nancy L. Baldwin and Richard R. Deurer
14219 Longnecker Road
Reisterstown, Maryland 21136

Mark E. Engelskirch and Michele R. Engelskirch
14215 & 14217 Longnecker Road
Reisterstown, Maryland 21136

October 21, 2008

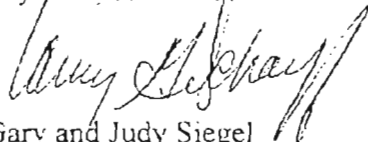
Lewis A. Scharff
14230 Longnecker Road
Glyndon, MD 21071

Dear Mr. Wiseman,

In regards to Case # 08-425-SPHA, we as adjacent property owners are 100% opposed to the requested variance for access to Mr. and Mrs. Russ Kahn's requested sub-division. We are opposed to the proposal to widen the drive and to the additional traffic this will cause.

Thank you for your attention to this matter.

Lewis and Laury Scharff
14230 Longnecker Rd.
Glyndon, MD 21071



Gary and Judy Siegel
14240 Longnecker Rd.
Glyndon, MD 21071





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

March 10, 2009

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

Francis X. Borgerding, Jr., Esquire
Suite 600
Mercantile-Towson Building
409 Washington Avenue
Towson, MD 21204

RE: *In the Matter of: Russell A. Kahn and Brenda Kahn*
Case No. 08-425-SPHA

Dear Messrs. Holzer and Borgerding, Jr.:

This will acknowledge receipt of Mr. Holzer letter dated March 4, 2009 in which he entered his appearance on behalf of the Protestants, Mr. and Mrs. Bildstein and requested a postponement of the April 7, 2009 hearing in the subject matter. The letter also indicated that the Petitioners, Mr. and Mrs. Kahn, had retained Francis X. Borgerding, Jr., Esquire. I spoke to Mr. Borgerding on this date and verified this representation of the Petitioners and that he was not in opposition to the Postponement Request.

Please note that the Board sits on Tuesday, Wednesday and Thursday of each week. The docket is currently scheduled through the end of May 2009. In order to avoid future scheduling conflicts and pending confirmation from your office as to availability, I will hold the following dates:

Wednesday, June 3, 2009 at 10:00 a.m.
Wednesday, June 10, 2009 at 10:00 a.m.; and
Tuesday, June 16, 2009 at 10:00.

Upon notification from Counsel as to which date works for everyone, a notice will be sent, reassigning to the confirmed date. Please contact this office upon receipt of this letter to confirm availability.

Enclosed is the Notice of Postponement from the assigned April 7, 2009 date.

Thanking you in advance for your time and cooperation in this matter. Should you have any questions, please call me at 410-887-3180.

Very truly yours,

Theresa R. Shelton
Administrator

Duplicate Original

Enclosure

c(w/Encl.): People's Counsel for Baltimore County
Mr. and Mrs. Bildstein
Mr. and Mrs. Kahn

*13634 Longnecker Road
Glyndon, Maryland 21071
410-833-5969*

March 5, 2009

Theresa R. Shelton, Administrator
County Board of Appeals
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

RE: Case #08-425-SPHA

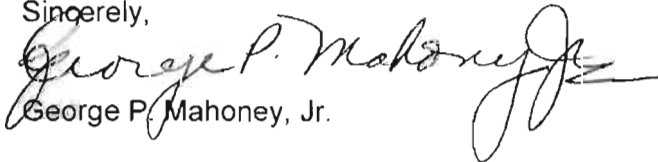
Dear Administrator Shelton:

My wife Mandy and I will be unable to attend the April 7th Board of Appeals meeting. However, we would like you to provide this letter to the members of the panel regarding the above referenced case.

Please note that Mandy and I are against subdivision of the Kahns' lot at 14225 Longnecker Road. We understand they are appealing the zoning commissioner's initial denial of their request and we urge the commission to uphold their decision and deny any subdivision of their lot.

If there are any questions please feel free to contact me.

Sincerely,


George P. Mahoney, Jr.

GPM:amk

RECEIVED
MAR - 9 2009
BALTIMORE COUNTY
BOARD OF APPEALS



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

February 4, 2009

Mark Gawel
Permits and Development Management
Mail stop 1105

Re: Sign Postings

Dear Mark:

Enclosed please find another new sign posting request.

Once these signs have been posted, you may interoffice the Certificates of Posting back to me at Mail stop 2013.

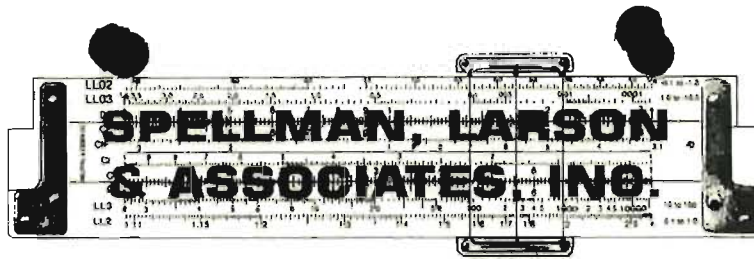
Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Sunny Cannington
Legal Secretary
kcannington@baltimorecountymd.gov

cc. Michael Mohler, Deputy Director



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

Ms. Kristen Matthews, Supervisor
Office of Zoning
Department of Permits & Development Management
Baltimore County

November 26, 2008

“Hand Delivered”

Re: Zoning Case No. 08-425 SPHA
14223 & 14225 Longnecker Road
Russell A. Kahn Property

Dear Kristen,

By way of this letter we wish to formally make an Appeal to the Board of Appeals of the decision rendered for the above captioned Case, as we discussed this morning. A copy of the Order is herewith attached.

Attached hereto please find the requisite \$400.00 Filing Fee and I would sincerely appreciate your processing this Appeal at your earliest convenience.

Should you need any additional information from this office please feel free to contact me at any time.

Very truly yours,

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

cc: Russ Kahn

File#L11260801

*Rec'd
11/26/08*

Search:

Baltimore County Code

ARTICLE 32. PLANNING, ZONING, AND SUBDIVISION CONTROL
TITLE 4. DEVELOPMENT

Choose search form

Links:

Go to ...

[Document](#)[Prev Chapter](#)[Next Chapter](#)[Contents](#)[Sync TOC](#)[Framed Version](#)

TITLE 4. DEVELOPMENT

Section

Subtitle 1. In General

- [32-4-101.](#) Definitions
- [32-4-102.](#) Development policies
- [32-4-103.](#) Purposes of the title
- [32-4-104.](#) Scope of title
- [32-4-105.](#) General exemptions
- [32-4-106.](#) Limited exemptions
- [32-4-107.](#) Waivers
 - [32-4-107.1](#) Notice of limited exemption or waiver
- [32-4-108.](#) Prohibition on transfer of land
- [32-4-109.](#) Recording an approved plat; prohibited
- [32-4-110.](#) Failure of county agency to act
- [32-4-111.](#) Fees
- [32-4-112.](#) Rules of procedure
- [32-4-113.](#) Delinquent accounts
- [32-4-114.](#) Compliance with other laws and regulations
- [32-4-115.](#) Enforcement and remedies
- [32-4-116.](#) Public buildings
- [32-4-117.](#) Renaissance Redevelopment Pilot Program

Subtitle 2. Development Review and Approval Process

(3) The combination of any two or more lots, tracts, or parcels of property for any purpose;

(4) Subjecting property to the provisions of the Maryland Condominium Act; or

(5) The preparation of land for any of the purposes listed in this subsection.

(q) *Development Plan*. "Development Plan" means a written and graphic representation of a proposed development prepared in compliance with Subtitle 2 of this title.

(r) *Enhancement*. "Enhancement" means the improvement or development of resource values resulting in a net increase of resource over existing conditions.

(s) *Environmental agreement*. "Environmental agreement" means an agreement concerning an applicant's obligations required by the county, including:

- (1) Chesapeake Bay Critical Area Management;
- (2) Forest buffer protection;
- (3) Forest conservation;
- (4) Grading or sediment control;
- (5) Stormwater management; and
- (6) Wetland mitigation.

(t) *Final action*. "Final action" on a Development Plan means:

- (1) The approval of a Development Plan as submitted;
- (2) The approval of a Development Plan with conditions; or
- (3) The disapproval of a Development Plan by the Hearing Officer in accordance with § 32-4-229 of this title.

(u) *Front building line*. "Front building line" means a line beyond which the front foundation wall of a building may not project into the front yard as provided in the Baltimore County Zoning Regulations.

(v) *Hearing Officer*. "Hearing Officer" means the Zoning Commissioner or the Deputy Zoning Commissioner.

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF:

Russell and Brenda Kahn

08-425-SPHA

DATE:

August 12, 2009

BOARD/PANEL:

Wendell Grier
Andrew Belt
Robert Witt

RECORDED BY:

Sunny Cannington/Legal Secretary

PURPOSE:

To deliberate the following:

1. Petition for Special Hearing to allow another building lot to use a 16.5' private driveway for access to Longnecker Road.
2. Petition for Variance to approve access to the subject property by way of a 16.5' private driveway that is 3,420' in length in lieu of the allowed 1,000' length.
3. Is the access driveway to Longnecker Road a panhandle driveway or a right of way?

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- Petitioners requested Special hearing to allow another building lot to use a 16.5' private driveway for access to Longnecker Road by right-of-way, or in the alternative, Variance relief to allow the private driveway access as a panhandle driveway.
- The Board discussed the testimony, memorandum, and evidence provided. All evidence and testimony provided agrees that the driveway has never been established as a panhandle driveway. In order to be established as a panhandle driveway, the owners of the adjacent properties all have in-fee ownership of a portion of the driveway and the driveway has to be a certain width as well as meeting other requirements. In this matter, none of the adjacent property owners have in-fee ownership of the driveway and the road is too narrow. The Board determined that by these standards, the driveway has been established as a right-of-way.
- The Board discussed the Protestants' arguments with regard to allowing the use of the driveway. The Protestants argued that by allowing another property to use the driveway, the additional traffic would be detrimental to the neighborhood. The Protestants provided evidence and testimony that the driveway is already perilous. It is narrow and meeting on-coming traffic can be dangerous. The additional traffic, which the Protestants estimate to be an additional 10 trips per day on the driveway, will increase the hazardous

conditions the neighborhood is already dealing with. The Board determined that the traffic conditions are something that would be addressed during the development plan process and are not at issue in the current matter.

- The Protestants also expressed concern with regard to the subdivision of the property owned by the Petitioners. The Petitioners' property is Zoned R.C.2 which gives them the right to subdivide their property. The Protestants provided evidence that the house currently on the property is not being used in a residential capacity. If that property were to be used in a residential capacity and the additional proposed development were to be used strictly in a residential capacity, the Protestants concede that the additional use of the driveway would not add to the hazardous conditions. The fact that the property is being used in a commercial capacity causes additional problems, with large trucks using the driveway frequently. The Board determined that the current use of the property is not at issue in this matter. If the property is being misused, it would be an issue to bring before Code Enforcement for citation.

DECISION BY BOARD MEMBERS: The Board determined that the driveway is not a panhandle driveway. The driveway is a right-of-way. The Petitioners have a right to subdivide their property. The property has access to the right-of-way driveway. Upon subdivision of the property, the right-of-way extends to the new unit.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the Petition for Special Hearing to allow access to Longnecker Road by right-of way and the Petition for Variance, in the alternative, to allow the panhandle driveway is DENIED AS MOOT.

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

CASE #: 08-425-SPHA

IN THE MATTER OF: Russel A. Kahn and Brenda Kahn –
LO; PETITIONER
142253 and 14225 Longnecker Road
4th Election District; 3rd Councilmanic District

RE: SPH – To allow another bldg lot to use the 16.5' private dvwy for access to Longnecker Road; Sec. 500.7 and Sec. 32-4-409(c) of the *Baltimore County Code*

VAR – To approve access to the subj property by way of a 16.5' private driveway 3420' more or less in length, ilo the allowed 1000' in length; Section 32-4-409(e)(2) of the *Baltimore County Code*

10/28/2008 – Z.C.'s Order in which requested zoning relief was **DENIED**.

2/25/09 – Notice of Hearing scheduled for Tuesday, April 7, 2009 at 10:00 sent to the following:

c: Appellant

: Joseph Larson, on behalf of
Russel Kahn and Brenda Kahn

Mr. And Mrs. Kravitz
Douglas Grice
Mr. And Mrs. Engelskirch
Nancy Baldwin / Richard Deurer

Mr. And Mrs. Siegel
George Mahoney, Jr. and Mrs. Scharff
F. Evans / Joan Bildstein

People's Counsel for Baltimore County

William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

3/6/09 – Received Entry of Appearance from J. Carroll Holzer on behalf of Mr. and Mrs. Bildstein, Protestants and requesting PP. Also noted that Mr. Borgerding was representing the Petitioners.

3/9/09 – Received letter from George P. Mahoney, Jr. stating that he will not be able to appear at the 4/7/09 hearing. Letter to file.

CONTINUED

CASE #: 08-425-SPHA

IN THE MATTER OF: Russel A. Kahn and Brtenda Kahn –
LO; PETITIONER
142253 and 14225 Longnecker Road
4th Election District; 3rd Councilmanic District

RE: SPH – To allow another bldg lot to use the 16.5' private dvwy for access to Longnecker Road; Sec. 500.7 and Sec. 32-4-409(c) of the *Baltimore County Code*

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10/28/2008 – Z.C.'s Order in which requested zoning relief was **DENIED**.

Page 2 - continued

3/10/09- Called Mr. Borgerding and he advised that he does represent the Petitioners and that he had no objection to the PP. Sent a Letter to both Counsel requesting confirmation of availability on scheduling. Provided 3 dates. Added counsel to Notification List.

Notice of Postponement sent to:

c:	Counsel for Petitioners/Legal Owners	:	Francis X. Borgerding, Jr., Esquire
	Petitioners/Legal Owners	:	Russel Kahn and Brenda Kahn
	Counsel for Protestants	:	J. Carroll Holzer, Esquire
	Protestants	:	Mr. And Mrs. Bildstein
	Mr. And Mrs. Kravitz		Mr. And Mrs. Siegel Joseph Larson
	Douglas Grice		George Mahoney, Jr. Mr. and Mrs. Scharff
	Mr. And Mrs. Engelskirch		F. Evans Nancy Baldwin / Richard Deurer
	People's Counsel for Baltimore County		
	William J. Wiseman III /Zoning Commissioner		
	Pat Keller, Planning Director		
	Timothy M. Kotroco, Director /PDM		

Both Counsel telephoned this office and were able to proceed on 6/10/09.

3/26/09	Notice of Re-Assignment for 6/10/09 at 10:00 sent to all parties.
6/10/09	Hearing concluded before the Board. (Grier – Belt – Witt). Memos due 7/24/09.
6/12/09	Notice of Deliberation sent to all parties. Deliberation scheduled for Wednesday, August 12, 2009 at 9:00 am.
7/13/09	Telephone call from Ms. Ryan requesting info on case. Ms. Ryan added to notification list.

CASE #: 08-425-SPHA

IN THE MATTER OF: Russel A. Kahn and Brtenda Kahn –
LO; PETITIONER
142253 and 14225 Longnecker Road
4th Election District; 3rd Councilmanic District

RE: SPH – To allow another bldg lot to use the 16.5' private dvwy for access to Longnecker Road; Sec. 500.7 and Sec. 32-4-409(c) of the *Baltimore County Code*

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10/28/2008 – Z.C.'s Order in which requested zoning relief was **DENIED**.

Page 3 – continued

******* add Elizabeth Ryan to cc on Order**

7/24/09	Closing Briefs filed by Protestant and Petitioner. Distributed to Panel.
8/12/09	Board convened for public deliberation
10/16/09	Opinion and Order issued by Board Granting Special hearing relief and dismissing as moot the Petition for Variance.

CASE NAME Kohn
CASE NUMBER 08-425-SP
DATE 08.21.2008

[illegible]

CASE NAME Kahn
CASE NUMBER 08-425-SP11A
DATE 2/01/08

[illegible]

CASE NAME Bahn
CASE NUMBER 08-425-SPHA
DATE 5-20-08

[illegible]

CASE NAME Kahn
CASE NUMBER 08-425-SPHA
DATE 5-20-08

CITIZEN'S SIGN-IN SHEET

[illegible]

Case No.: 08-425-SPHA 14223¹; 14225 LONGNECKER RD

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	AMENDED SITE PLAN Revised 7/30/08	Photo's Entrance from NS Piney Grove
No. 2		Deed } Rohde to Biddstein
No. 3		Multiple Photographs of Private Drive
No. 4		Md Dept of Assessments and Taxation.
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

FEE SIMPLE DEED—TENANCY BY THE ENTIRETY.

JUL 12-71	212660	***30050
JUL 12-71	212660	***17350
JUL 12-71	212659	***11550
JUL 12-71	212658	***1150

This Deed, Made this 8th day of July

in the year one thousand nine hundred and seventy-one by - - - - -

✓ C. DAVID ROHDE and ✓ OLWEN S. ROHDE, his wife - - - - -

of Baltimore County, in the State of Maryland, parties of the first part, and

✓ F. EVANS BILDSTEIN and ✓ JOAN K. BILDSTEIN, his wife - - - - -

of Baltimore County, in the State of Maryland, parties of the second part.

PROTESTANT'S

EXHIBIT NO. 2

Witnesseth, That in consideration of the sum of five dollars, and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said parties of the first part do grant and convey unto the said parties of the second part, as tenants by the entireties, their assigns, the survivor of them, his or her heirs and assigns in fee-simple, all that lot of ground situate, lying and being in Baltimore County and described as follows, that is to say: BEGINNING FOR THE same at the end of the south 48 degrees 45 minutes West 38.9 perches line as described in a deed from Justamere Lodge, Inc. to C. David Rohde and wife, dated June 9, 1965, and recorded among the Land Records of Baltimore County in Liber R.R.G. No. 4469 folio 380 running thence binding on that deed, south 43 degrees 35 minutes East 264.00 feet to the center of a right of way, 16.5 feet wide, thence running in the center of said right of way, with the use thereof in common, the four following lines, North 49 degrees 01 minute 30 seconds East 120.6 feet, north 31 degrees 53 minutes 30 seconds East 189.12 feet, north 40 degrees 06 minutes East 337.02 feet and North 47 degrees 34 minutes East 29.05 feet to a pipe, thence by a line of division as now computed, North 52 degrees 32 minutes West 219.36 feet and to the end of the south 68 degrees 15 minutes West 100 perch line in the first above mentioned deed, thence binding on that deed as now computed to follow the same, South 43 degrees 36 minutes West 634.28 feet to the place of beginning. Containing three acres and six hundred twenty-six thousandths of an acre of land more or less.

Subject, however, to the northwesternmost half of the above mentioned right-of-way 16.5 feet wide.

PAID 100.00 JUL 9

520.50 MSC

Being a part of all that lot of ground which by deed dated June 9, 1965, and recorded among the Land Records of Baltimore County in Liber R.R.G. 4469 folio 380 was granted and conveyed by Justamere Lodge, Inc. unto the within named grantors.

WT 15-11	51502008	***1120
WT 15-11	51502008	***11220
WT 15-11	51500008	***11220
WT 15-11	51500008	***20020

40

663

⑦

B. Co.

DEED

FROM

C. DAVID ROHDE and

OLWEN S. ROHDE, his wife

TO

F. EVANS BILDSTEIN and

JOAN K. BILDSTEIN, his wife

Block No.

4-48330

Received for Record, 196

at o'clock M. Same day recorded in

Liber No. Folio etc.

one of the Land Records of

and examined per

Clerk.

Cost of Record, \$

MAIL
TO:

NORRIS AND BAST

Bradford Federal Building

6900 York Road

Baltimore, Md. 21212

377 6200

1150

1150

MD 11550

RECEIVED & RECORDED

IN Land RECORDS

CIRCUIT COURT FOR

BALTO. CO

'71 JUL 12 PM 12 29

LIBER 6200

FOLIO 663

ORVILLE T. GOSNELL

CLERK

Together with the use of a right of way, 16.5 feet wide, leading to the County Road which runs from Piney Grove to St. Johns Church and as recited in an agreement dated February 19, 1910, between Clara E. Walter, et al as recorded in Liber W.P.C. 359 folio 52.

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 in any wise appertaining.

To Have and To Hold said lot of ground and premises above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said parties of the second part, as tenants by the entireties, their assigns, the survivor of them, his or her heirs and assigns, in fee-simple.

And the said Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

Witness the hands and seals of said Grantors.

Test:

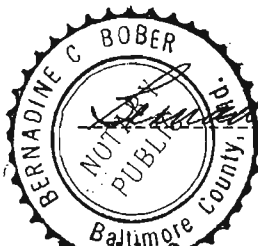
Bernadine C. Sober } *C. David Rohde* (Seal)
C. DAVID ROHDE
 } *Olwen S. Rohde* (Seal)
OLWEN S. ROHDE
 } _____ (Seal)
 } _____ (Seal)

State of Maryland, Baltimore County, to wit:

I HEREBY CERTIFY, That on this 8th day of July in the year one thousand nine hundred and seventy-one before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County, aforesaid personally appeared C. DAVID ROHDE and OLWEN S. ROHDE, his wife - - - - -

and they acknowledged the foregoing Deed to be their act.

As witness my hand and Notarial Seal.



Bernadine C. Sober
Notary Public.

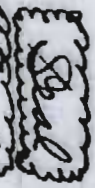
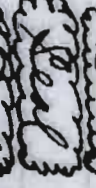
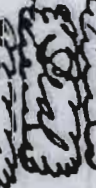
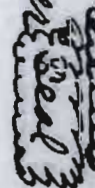
Rec'd for record JUL 12 1971 at 12²⁹ PM
Per Orville T. Gosnell, Clerk
Mail to *Norris & Best*
Receipt No. *1150*

of them, and ~~not~~ at any time during the term
said lease, their heirs or assigns. I shall an-
nounce to her or them of one dollar as renewal
execute and deliver to the said Lessee, their
personal representatives or assigns, at their cost
and lease for the said described parcel of
land for another term of ninety-nine years to
commence on the expiration of the lease, subject to
same rent and with the same covenants, so that the
lease hereby created, may be renewable and renewed
at any time forever.

These the hands and seals of the said Lessee
Lessee.

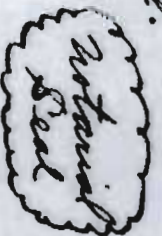
at:

West Eocke

Anna S. Davis 
Charles Davis 
George F. Windsor 
Mrs Minnie Windsor 

State of Maryland,
City of Baltimore, to wit:

Hereby certify, That on the 15th day of March
before me, the undersigned, a Notary Public
in the State of Maryland and for the City
of Baltimore aforesaid, personally appeared Anna S.
and Charles Davis, her husband, Lessee, and
G. F. Windsor, and Minnie Windsor his wife, Lessee,
in to the aforesaid lease and they acknowledged
aforesaid lease to be their act.
In witness my hand and Notarial Seal.

Albert E. Becker 
Notary Public
died April 5th 1910 at 4:05 P.M. and Exd.
per William F. Cole, Clerk.

(62)

and between
E. Walter
and Frederick
Hundredmark
of J. Walter
Waller
and.
This deed of Agreement of Right of
Way, made this nineteenth day of
February in the year nineteen hun-
dred and ten (A.D. 1910) by and between
Clara E. Walter (widow) of the first
part; Frederick Hundredmark and
Mary Alberta Hundredmark, his wife,
of the second part; Margaret L. Waller

Witness my hand

from; and John & Helen and Elizabeth (Calver), free
 the fourth part. Whereupon the said Clara E.
 and by virtue of the last Will and Testament
 of Walter dated December 23, 1901 and recorded
 here of the Register of Wills, for Baltimore
 Wills, Liber H.R. No. 12 folio 461 &c. in the
 certain tract of land situated in the South
 district of Baltimore County, Maryland, and, or
 which said tract of land there is a con-
 vey of many sixteen feet in width, which
 with of way was reserved, and mentioned
 Mary Washington (original owner of said tract
 and contained tract) in several Deeds, viz:
 from Philip S. Washington to Joseph Landon, dated
 29/1874 and recorded among the Land Records
 in Liber H.B. No. 89 folio 312 &c.
 from Mary S. Washington to Jacob S. Hewit,
 dated 17, 1870 and recorded among the Land Re-
 cords in Liber E.H.A. No. 68, folio 473 &c.
 from Mary S. Washington to John & Walter, dated
 1877 and recorded among the Land Records of
 County in Liber J.B. No. 102 folio 22 &c.
 and the said Frederick Hurdman; Mary
 and Helen B. Walter and John & Helen
 the second, third and fourth parts hereto;
 and means conveyances become the owners of
 the tract of land for which the said right of
 way road or ways were reserved, And Whereby
 said parties hereto have agreed that the said
 way road or ways as aforementioned and
 in the aforesaid Deeds should be abandoned exting-
 uished and have agreed to locate and open
 yet another and more desirable right of way
 the presents are executed.

in, This Deed of Agreement Whitherso, that in con-
 sideration of the several grants and
 remissions mentioned, the said Frederick Hur-
 man, Mary Abner Hurdman, his wife, Margaret
 (now) and Helen B. Walter (Bachelors) and John S.
 together J. Calver, his wife parties of the
 first and fourth parts hereto do hereby grant,

ing Books: (a) Deed from Mary S. Worthington et. al. to Joseph Landon, dated February 21, 1874 and recorded in the said Records of Baltimore County in Liber No. 31292. (b) Deed from Mary S. Worthington et. al. to Jacob S. Geist, dated November 17, 1870 and recorded in the said Records of Baltimore County in Liber No. 68, folio 4732e. (c) Deed from Mary S. Worthington et. al. to John S. Walter, dated January 3, 1877, and recorded among the said Records of Baltimore County in L.B. No. 102, folio 222e. And any other rights or ways, roads or roads, which have heretofore opened, held or used by the said parties hereto the property now owned by the said Clara E. Walter, the said Clara E. Walter in consideration of the value and the release and extinguishment of the interest mentioned, right of way or ways, road or roads, grants and conveyed to the said Frederick J. Warner, Margaret J. Walter and Edwin S. Walter (as joint tenants) and John S. Caborn, parties of the second, third and fourth hereto the right of way and, we are now of a road-way within about one-half feet in width and across the property which said way by a certain line is particularly described, as follows: Beginning for the same on and at the distance of twenty-five one hundredths of a foot from the beginning of South forty eight and three-fourths degrees West, hundred and three and three-tenths the hereto line to the said Deed from Mary S. Worthington et. al. to John S. Walter, dated August 4, 1886 and recorded among the said Records of Baltimore County in L.B. No. 155 folio 957e, and running thence in the line of said road with a width of one-fa perch on each side of said centre line following course and substance: South thirty nine and East, sixteen degrees, thirty-fifty three degrees thirty and eight-tenths perches; South ten degrees twenty-six and eight-tenths perches, thence parallel the surface of the property of the said Clara E. Walter at the distance of one-half a perch thence continuing at a centre line of said road South and one-fourth degrees West eight and so.

at nine p.m. with fifty-one and one-fourth
acres, thirty six and twenty-four one hundredths acres
thirteen and one-half degrees West, sixty-eight
miles mentioned in the deed from Mary S. Math-
al. to John S. Walter dated January 9, 1877, and
among the Land Records of Baltimore County in
Vol. 102, folio 22 &c.; thence parallel to said line
distance of one-half a perch thence from south
and one-half degrees West to the County road
from "Piney Grove" on the "Old Sturges Road"
to Pine Valley. And which said right of way
be a part or less at the beginning from
the old line at at a stone at the end of the
cut, six and three-fourths degrees West, twenty
miles mentioned in the deed from Mary
Walter to John S. Walter, dated January 9,
recorded among the Land Records of
Baltimore County (Vol. 102, folio 22 &c.).
And to hold the aforementioned right of way
and one-half feet in width with all of the
rights and then there and assign as a right
to be added in common by all of the parties
therein and assign and descend.

the hands and heads of the said parties
at by: Clara E. Walter
H. Brown
Frederick Hundtman. Seal

Frederick Howard
Mary Abigail Howard
Margaret & Walter
Allen D. Walter
John D. Osborne
Elizabeth J. Osborne

State of Maryland,

Calhoun County, S. Dak.

certify that on this nineteenth day of
in the year nineteen hundred and ten (A.D.
me, the undersigned, a Justice of the Peace
of Maryland, in and for Baltimore County, appeared
named and qualified, personally appeared Clara
Frederick Hundredmark and May Alberta Hund-
redmark; Margaret L. Haller and Helen D. Haller;
Calvin and Elizabeth Libborn his wife
the said

Case No.: 08-425-SPHA14223 & 14225 LONGNECKER K

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	AMENDED SITE PLAN Revised 7/30/08	Photo's Entrance from NS Piney Grove
No. 2		Deed } Rohde to Biddstein
No. 3		Multiple Photographs Of Private Drive
No. 4		Md Dept of Assessments and Taxation.
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



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

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

Account Identifier: District - 04 **Account Number -** 0423000951

Owner Information

Owner Name:	WALTER RALPH B WALTER LUCY LURLIE	Use:	AGRICULTURAL
Mailing Address:	4240 PINEY GROVE RD REISTERSTOWN MD 21136	Principal Residence:	NO
		Deed Reference:	1) / 4308/ 617 2)

Location & Structure Information

Premises Address
 4302 PINEY GROVE RD

Legal Description
 50 AC NS PINEY GROVE
 NS PINEY GROVE RD
 TO ST JOHNS RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
32	19	18						1	Plat Ref:

Special Tax Areas

	Town
	Ad Valorem
	Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1851	1,732 SF	50.00 AC	05

Stories	Basement	Type	Exterior
2	NO	STANDARD UNIT	WOOD SHINGLE

Value Information

	Base Value	Value	Phase-in Assessments		
		As Of	As Of	As Of	
		01/01/2007	07/01/2008	07/01/2009	PREFERENTIAL LAND VALUE INCLUDED IN LAND VALUE
Land	71,630	131,630			
Improvements:	118,830	168,130			
Total:	190,460	299,760	263,326	299,760	
Preferential Land:	11,630	11,630	11,630	11,630	

Transfer Information

Seller: WALTER ODEN B AG USE 83-84	Date: 03/07/1983	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: / 4308/ 617	Deed2:

Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2008	07/01/2009
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
 AGRICULTURAL TRANSFER TAX

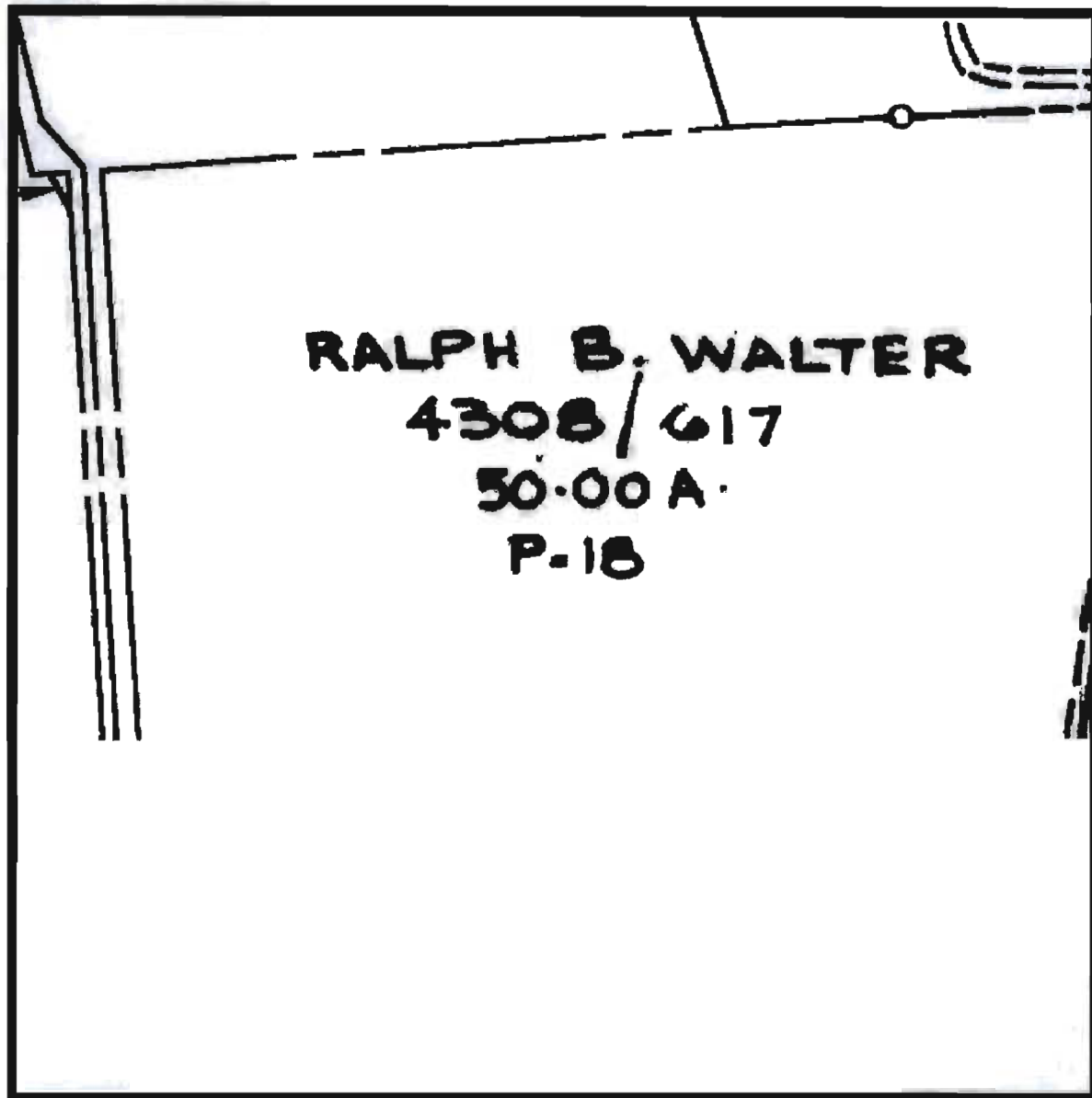
PROTESTANT' S

EXHIBIT NO.

4



District - 04 Account Number - 0423000951



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For more information on electronic mapping applications, visit the Maryland Department of Planning web
site at www.mdp.state.md.us/webcom/index.html



 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 -** 0423000675

Owner Information

Owner Name:	WALTER VERNON R BROOKS CAROL A BURK JOHN K BROWN JOYCE B, ET AL	Use:	AGRICULTURAL
Mailing Address:	14209 LONGNECKER RD REISTERSTOWN MD 21136-4845	Principal Residence:	YES
		Deed Reference:	1) /22458/ 634 2)

Location & Structure Information

Premises Address	Legal Description
14209 LONGNECKER RD	52.805 NS LONGNECKER RD OPP PINEY GROVE RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
32	20	162						1	Plat Ref:

Special Tax Areas

Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1900	1,520 SF	52.80 AC	05

Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	ASBESTOS SHINGLE

Value Information

	Base Value	Value As Of 01/01/2007	Phase-in Assessments As Of 07/01/2008	As Of 07/01/2009	PREFERENTIAL LAND VALUE INCLUDED IN LAND VALUE
Land	58,770	109,770			
Improvements:	44,180	67,680			
Total:	102,950	177,450	152,616	177,450	
Preferential Land:	7,770	7,770	7,770	7,770	

Transfer Information

Seller: WALTER VERNON R BURKE MARY E	Date: 08/30/2005	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: /22458/ 634	Deed2:
Seller: WALTERS LESNEY A G USE 83-84	Date: 04/05/1983	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: / 537/ 338	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2008	07/01/2009
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO

Exempt Class:

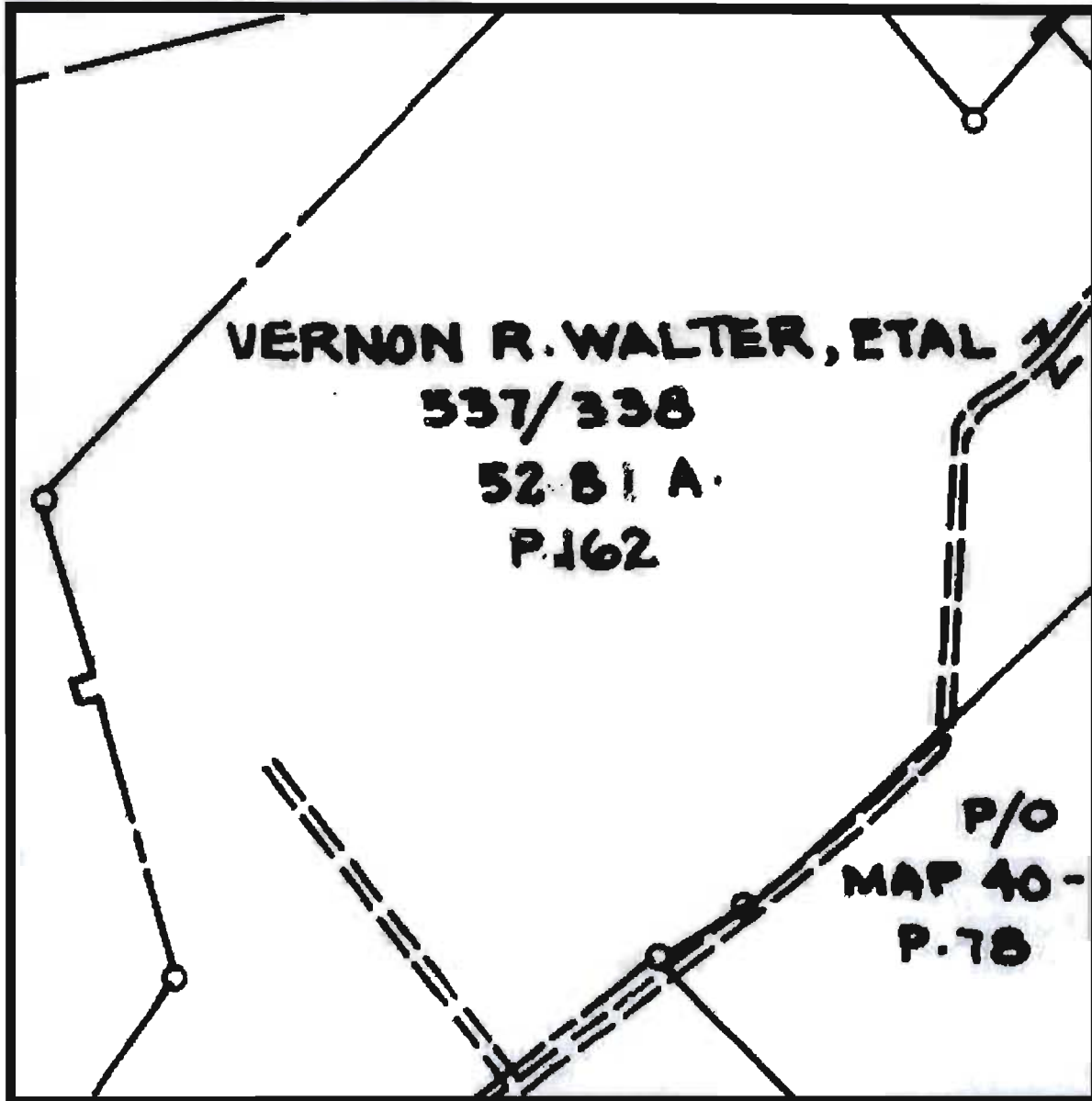
Special Tax Recapture:
AGRICULTURAL TRANSFER TAX HOMEOWNERS
TAX CREDIT



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
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District - 04 Account Number - 0423000675



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site at www.mdp.state.md.us/webcom/index.html





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

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[New Search](#)

Account Identifier: District - 04 **Account Number -** 0423000954

Owner Information

Owner Name:	WALTER RALPH B WALTER LUCY LURLIE	Use:	AGRICULTURAL
Mailing Address:	4240 PINEY GROVE RD REISTERSTOWN MD 21136	Principal Residence:	YES
		Deed Reference:	1) / 4308/ 617 2)

Location & Structure Information

Premises Address
 4240 PINEY GROVE RD

Legal Description
 27.943 AC
 ES PINEY GROVE RD
 NE COR LONG NECKER RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
32	20	107						1	Plat Ref:

Special Tax Areas

Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1901	1,456 SF	27.94 AC	05

Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	ASBESTOS SHINGLE

Value Information

	Base Value	Value	Phase-in Assessments			
		As Of	As Of	As Of		
		01/01/2007	07/01/2008	07/01/2009		PREFERENTIAL LAND VALUE INCLUDED IN LAND VALUE
Land	64,880	124,880				
Improvements:	68,560	104,030				
Total:	133,440	228,910	197,086	228,910		
Preferential Land:	4,880	4,880	4,880	4,880		

Transfer Information

Seller: WALTER ODEN B AG USE 83-84	Date: 03/07/1983	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: / 4308/ 617	Deed2:

Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

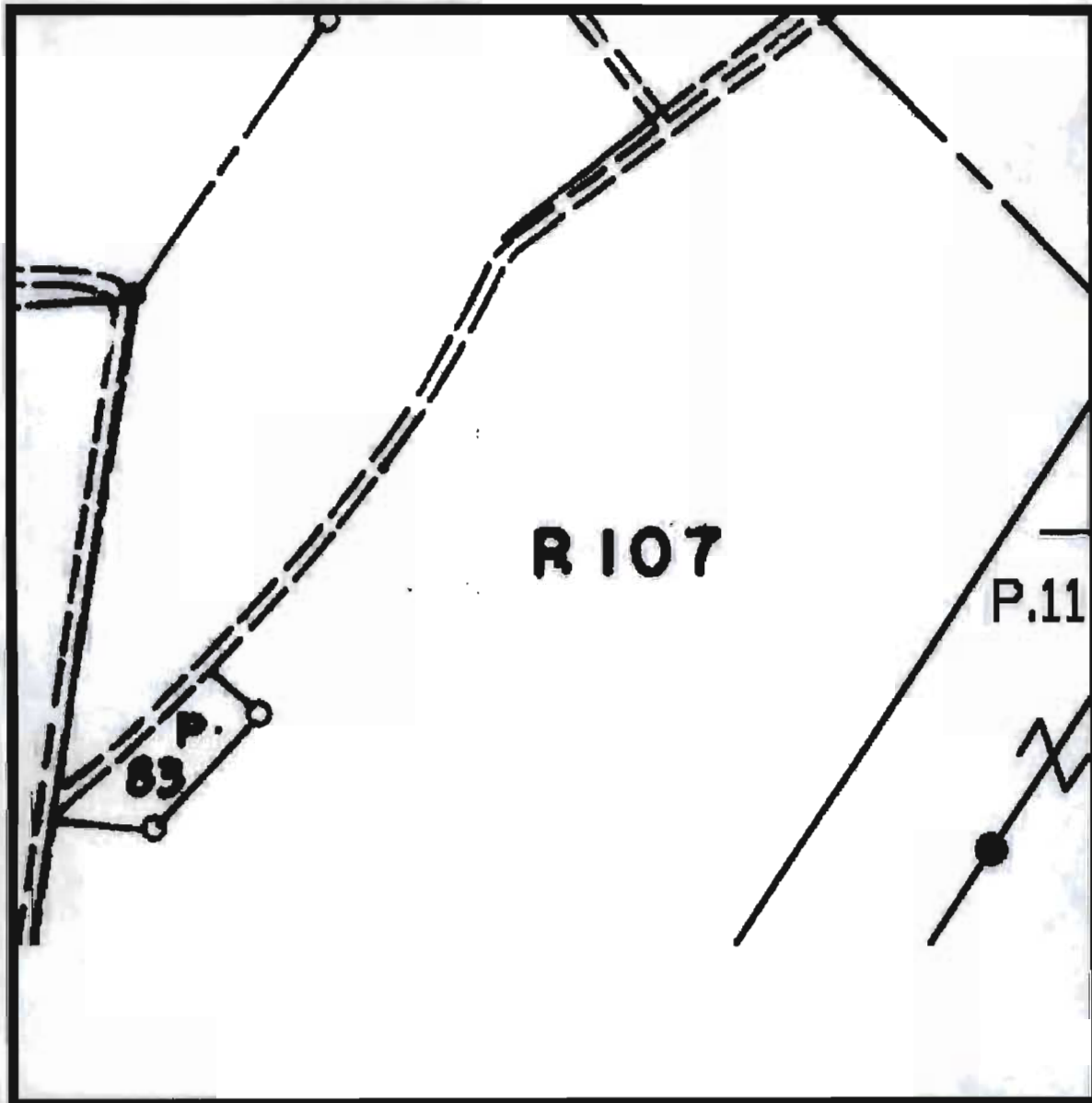
Partial Exempt Assessments	Class	07/01/2008	07/01/2009
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
 AGRICULTURAL TRANSFER TAX



District - 04 Account Number - 0423000954



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For more information on electronic mapping applications, visit the Maryland Department of Planning web
site at www.mdp.state.md.us/webcom/index.html



Case # 08-425-SPH4 - Ruane Kahn

Petitioner's Exhibits:

Winkler
to
6/10/09

- ✓ 1. Pet. Exh 1. - Amended Site Plan
- ✓ 2. Pet. Exh. 2. - Letter from Mr. Cippinotto - /Agricultural Pro. 7/11/08
- ✓ 3. Pet. Exh 3 - C.V. of Mark Daneker
- ✓ 4. Pet. Exh 4. - Danker Certification of Title
- ✓ 5 Pet. Exh. 5. - Copy of Original Easement
- ✓ 6. Pet. Exh 6. - Deeds - showing conveyed right of Easement
- ✓ 7. Pet. Exh. 7. - Deeds - of surrounding Property
- ✓ 8. Pet. Exh 8. - Mahoney v. Devonshire 86 Md App 598
- ✓ 9 Pet. Exh. 9. - C.V. of Mitchell Kellman
- ✓ 10. Pet. Exh 10. - 32-4-409 Penhale
- ✓ 11. Pet. Exh. 11 - 24c Concrete for D. Kennedy
- ✓ 12. Pet. Exh 12 - Correspondence from Pat Keller 4/9/08
- ✓ 13 Pet. Exh 13 - Fire Marshal Correspondence 3/26/08
- ✓ 14. Pet. Exh 14 - Thoughts on Exhibits 5/30/09
- ✓ 15 Pet. Exh 15 - \$500 - Advertisement + Exhibit

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: July 11, 2008

SUBJECT: Zoning Item # 08-425-SPH
Address 14223-14225 Longnecker Road

Zoning Advisory Committee Meeting of March 31, 2008

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).
- Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

The subject property to be served by the proposed use in common driveway is within 100 feet of a Use III stream and is predominantly forested. DEPRM will not approve any subdivision or development of this property until the aforementioned regulations are met. - *Glenn Shaffer; Environmental Impact Review*

Agricultural Preservation: Advisory only comment: Do not oppose this petition but as a rule for not support variances that enables additional development in Agricultural Preservation Areas. - *W.S. Lippincott; Agricultural Preservation*

S:\Devcoord\1 ZAC-Zoning Petitions\ZAC 2008\ZAC 08-425-SPH revised 14223-14225 Longnecker Rd.doc

6/10/09 08-425-SPHA Pet Exh 2

**DANEKER, McINTIRE, SCHUMM, PRINCE, GOLDSTEIN,
MANNING AND WIDMANN, P.C.**

**Attorneys At Law
Suite 2450
One N. Charles Street
Baltimore, Maryland 21201
(410) 649-4747
Facsimile (410) 649-4758**

Curriculum Vitae

MARK J. DANEKER, born Baltimore, Maryland, 1943; admitted to bar, 1969, Maryland, and U.S. Supreme Court and U.S. Forth Circuit Court.

Education: Cornell Univerity (B.S., 1965); Cornell University (M.B.A., 1966); University of Maryland (Juris Doctor, with honors, 1969). Member; Maryland State Bar Association

Practice Areas, : Real Estate, Title Examinations, Title Insurance, Estates and Trusts, Litigation.

Law firm partnerships:

Constable, Alexander, Daneker and Skeen, 1969 to 1985

Semmes, Bowen, and Semmes, 1985 to 1995

Danecker, McIntire, Schumm, Prince, Goldstein, Manning, and Widman
1995 to present

Adjuct Professor – University of Baltimore - taught business law, including section on real estate law for three years

Camden Title and Settlement Co. Inc. – President and chairman – 1985 to present. Licensed Title insurance agent in Maryland.

Testified as expert witness in real estate title matters in District Court of Maryland and Circuit Court of Baltimore City .

**DANEKER, MCINTIRE, SCHUMM, PRINCE,
GOLDSTEIN, MANNING & WIDMANN, P.C.**

**Attorneys At Law
Suite 2450
1 N. Charles Street
Baltimore, Maryland 21201-3740
(410) 649-4747
Facsimile (410) 649-4758**

***Mark J. Daneker
Direct Dial (410) 649-4753***

**Certification of Title Attorney Pertaining to Right-Of-Way
Servicing 14225 Longnecker Road, Baltimore County, Maryland**

I hereby certify that I am an attorney admitted to practice in the State of Maryland in 1969. I am authorized to practice in all courts of the State of Maryland as well as the United States District Court for Maryland, the Fourth Circuit Court of Appeals, and the United States Supreme Court. I have been a licensed title insurance agent in the State of Maryland for approximately 30 years. I have performed more than 1000 title examinations over the last 40 years. I have been the attorney of record on numerous occasions in matters pertaining to defects or alleged defects in the title to various properties. I have appeared as an expert witness on title matters in the District Court of Maryland and in the Circuit Court for Baltimore City.

I have examined the chain of title to the property known as 14225 Longnecker Road, Baltimore County, Maryland, consisting of 5.938 acres of land, more or less, presently titled to Russel A. Khan and Brenda Kahn by virtue of a deed dated January 31, 2006 and recorded in the Land Records of Baltimore County in Liber 23508, Folio 201. I have determined that this property has the benefit of a 16.5 foot wide right-of-way established by an Agreement of Right of Way dated February 19, 1910 between Clara E. Walter and Frederick Hundermark and others, including John D. Osborn and Elizabeth J. Osborn, which is recorded in Liber WPC No. 359, folio 52. This Right of Way is commonly referred to as Longnecker Road and connects this property to Piney Grove Road. The chain of title of this property descends directly through various owners from John D. Osborn and Elizabeth J. Osborn. It is significant to note that this Right of Way Agreement specifically states, at page 55, that it is "to be used in common by all the parties hereto, or their heirs and assigns, forever". Each deed in the chain of title includes language assigning the right to use this Right of Way to the grantees.

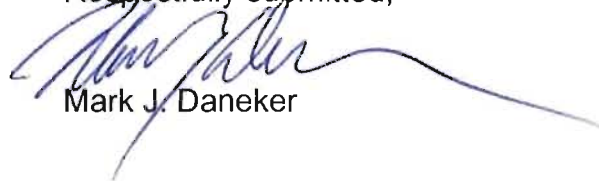
I have further determined that the Osborn's property consisted of 28 acres. After their death, the property was deeded to their daughter, Bessie A. Osborn in 1934 with the exception of 2.5 acres that had been deeded to Susquehanna Transmission Co. in 1930. The remaining 25.5 acres passed through several owners until 1965 when it was conveyed to C. David Rohde. Beginning in 1968 Mr Rohde subdivided the property by deed descriptions into several parcels, one of which is presently the Kahn property known as 14225 Longnecker Road. At least two others constituted the properties presently known as 14213 Longnecker Road, presently owned by Douglas and Patricia

Grice, and 14211 Longnecker Road, presently owned by Evans and Joan Bildstein. Each of those subdivided properties was granted the right to use the Right of Way in question. These deeds document that the use of this Right of Way has not been deemed by the holders to be restricted so as to prevent subdivision of the original parcels.

I have further examined Maryland case law to determine whether there is any legal authority dealing with a subdivision of properties relying upon a right of way to access the public road. The case of George P. Mahoney, Jr. v. Devonshire, Inc. 86 Md App 624 (1991, cert denied 323 Md 3) is directly on point and coincidentally dealt with another subdivision located on another portion of the same Longnecker Road. The Court of Special Appeals upheld the trial court's decision that the property in question there could be subdivided into six lots, each of which would be entitled to use of the right-of-way. The Court stated, at page 638, "Further, it was not erroneous to permit the increased use of the roadway. It was foreseeable that the property of appellees would be subdivided and the right-of-way required to bear an increased burden of use." The Court further cited, with approval, language in the Restatement of Property Section 488 (1944) stating that easements may be apportioned when the dominant tenement (that is, the property having the benefit of use of the easement) is subdivided. In the Mahoney case, at page 632, the Court cited the Restatement of Property as follows: "Except as limited by the terms of its transfer or by the manner or terms of the creation of the easement appurtenant, those who succeed to the possession of the each of the parts into which a dominant tenement may be subdivided thereby succeed to the privileges of use of the servient tenement authorized by the easement."

It is clear from examination of the original Agreement of Right of Way itself and the subsequent deeds in the chain of title, that there is no such restriction on subdivision or limitation on use of the easement. Accordingly, the Kahns have the right under Maryland law to assign the right to use the Right-of-Way to any property that they might subdivide from their existing parcel.

Respectfully submitted,



Mark J. Daneker

June 4, 2009

Mark J. Daneker, Esq.
Daneker, McIntire, Schumm, Prince,
Goldstein, Manning & Widmann, P.C.
One North Charles Street - Suite 2450
Baltimore, Maryland 21201

partly paid, based around all persons claiming to claim anything thereby, by, through, or under them, or any of them, and that at any time during this demise all said Lewis, their heirs, assigns, shall on payment to her, or him, of one dollar, as removal fee, execute and deliver to the said Lewis, their personal representative, or assigns, at their cost a new lease for the said described parcel of ground for a term of ninety-nine years to commence on the expiration of the lease, subject to the same, and with the same covenants, so that the demise hereby created, may be renewable and renewed from time to time forever.

Witness the hands and seals of the said Lewis and Lewis.
Test:
Albert Becker

James O. Lewis
Charles Lewis
Charles Lewis
Mary Lewis
New Lewis
City of Baltimore, to wit:
State of Maryland,

I hereby certify, that on the 15th day of March 1910, before me, the undersigned, a Notary Public of the State of Maryland, personally appeared James O. Lewis and Charles Lewis, her husband, Lewis, and Joseph H. Lewis, and Minnie H. Lewis, his wife, Lewis, parties to the foregoing lease and they acknowledged the foregoing lease to be their act.
Witness my hand and Notarial Seal.

Recorded April 5th 1910 at 4:05 PM and End.
For William F. Cook, Clerk.

Agreement between
Oliver E. Walker
and
Frederick H. Walker
Margaret E. Walker
Oliver E. Walker
and
John D. Walker
This is a deed of Agreement of Right of Way, made this nineteenth day of February in the year nineteen hundred and ten, (A.D. 1910) by and between Oliver E. Walker (Vendor) of the first part; Frederick H. Walker and Margaret E. Walker (Wife of the second part) of the second part; Frederick H. Walker (Heir) and John D. Walker (Heir) of

DELIVERED
JAN 28 1911

1324

6/10/07 08-425-SRH14 Pst Exh. 5

the said tract, and John & Helen and Elizabeth J. Deben, his wife, of the fourth tract. Thence the said Claim E. Waller under, and by virtue of the last Will, and Testament of John & Waller dated December 29, 1901 and recorded in the office of the Register of Wills, for Baltimore County and Spillville, also W.P. No. 12 folio 461 &c. in the name of certain tracts of land, situated in the Sixth Election District of Baltimore County, Maryland, and, or through, which said tracts of land, there is a certain right of way, or ten feet in width, which said right of way, was reserved, and mentioned by one Mary Washington (a virginian widow of and that of land and contiguous tracts) in several Deeds, viz:

- (1) Deed from William S. Washington to Sarah Dandridge, dated February 29, 1874, and recorded among the Land Records of Baltimore County in Folio 113. No. 87, folio 312 &c.
- (2) Deed from Mary S. Washington to David S. Debit, dated November 17, 1870 and recorded among the Land Records of Baltimore County in Folio E. W.P. No. 65, folio 473 &c.
- (3) Deed from Mary Washington to John S. Waller, dated January 4, 1877 and recorded among the Land Records of Baltimore County in Folio E. B. No. 112 folio 2240.

And if found, the said Frederick Wintzelmund, Mayor of Baltimore and John C. Waller, and John & Helen and Elizabeth J. Deben, the said second, third, and fourth tract, have, have by several means, convenience become the owners of the original tracts of land for which the said right of way or passage, road or road, was reserved, and whereas, all of the said parties have agreed that the said right of way or passage road or road as aforementioned and reserved in the aforesaid Deeds should be abandoned existing, and cancelled and have agreed to locate and open in lieu thereof another and more desirable right of way or road, these parties, do execute.

Now Therefore, This Deed of Agreement Witnesseth, that in consideration of the summe and of the several grants and covenants hereinafter mentioned, the said Frederick Wintzelmund and Mary Abbe, Remondment his wife, August J. Waller (widow) and John C. Waller (brother), and John S. Deben, and Elizabeth J. Deben, his wife parties of the second, third and fourth tract have do their grant, assign, assign and quit claim, unto the said John C. Waller, his heirs and assigns, all their right title in, tract and estate and well in, common which they or

either of them; held on account, viz, withdrawn the right
of way on waste road or road as received in the fol-
lowing bills: (a) Deed from Mary G. Washington et al.
to Joseph Landon, dated February 29, 1874 and recorded
among the Land Records of Calverton County in Volume
87, folio 312 VC. (4) Deed from Mary G. Washington et al.
to Jacob S. Seibert, dated November 17, 1870 and recorded
among the Land Records of Baltimore County in Liber
Book A. No. 68, folio 413 VC. (c) Deed from Mary G. Wash-
ington et al. to John S. Wallis, dated January 9, 1877 and
recorded among the Land Records of Baltimore County in
Liber J. B. No. 102, folio 22 VC. And any other rights
they may have, used or made, which those heretofore
been opened, filed, or used by the said parties hereto
over the property now owned by the said Clara E. Wallis.
And the said Clara E. Wallis, in consideration of the
premises and the release and extinguishment of the
heretofore mentioned right of way or ways, road or
roads hereby granted and conveyed to the said Wallace
Henderson, Margaret Q. Wallis and Ellen S. Wallis (as first
tenants) and John S. Robert, parties of the second, their
and joint parts about the right of way and use in
common of a road-way within about six-hundred feet in
width over and across his property, so much land
situated by a certain line so particularly described as
follows: Beginning for the same upward at the distance of
eight and twenty four one hundredths feet from the beginning
of the street forty eight and three fourths degrees West,
one hundred and three and three tenths hundredths line
mentioned in the deed - given May 2, Washington
et al. to John S. Wallis, dated August 4, 1880 and record-
ed among the Land Records of Baltimore County in
Liber J. M. No. 105 folio 95 VC, and running thence
a course true of said road north, a width of one-
half of a foot, on each side of said center line
the following course and distances: First thirty nine
degrees East, sixteen hundred thirty eight three degrees
West, two and eight tenths inches; South ten degrees
West, twenty six and eighth inches; Thence straight
across the distance of five hundred and fifty feet
to the distance of one half of a foot, then thence
along the same line of said road, and back
along the same line of said road, and back
along the same line of said road, and back

public books. And stating you desire that

deeds that were since kept by Nelson and one half of your heirs, viz and David, from one hundredth part to one half, thirteen and one half degrees West, viz eight degrees line mentioned in the Book from May 8. 1741. until, at or to John R. Waller date January 9, 1817, and recorded among the Land Records of Baltimore County, in Book B. B. No. 102, folio 229c; thence a small tract line at the distance of one half a road to the town of Thorton and one half degree West to the County road leading from "King's Lane" on the "Old Shavers Road" to Washington Valley. And we likewise, saying may we all have a gate or fence at its beginning point and a gate or fence at its extremity. And of the "North Twenty six and three fourths degree West line" parcel "line mentioned in the deed from May 8. 1741" to John R. Waller, dated January 9, 1817 and recorded among the Land Records of Baltimore County in Book B. B. No. 102, folio 229c.

It is said and so with the aforementioned right way action and one half feet in width, with all of the public lands, and then from and along as a right of way to the road in, command by all of the public lands, on their side, and across the same.

Witness the hands and seals of the said Justice

Witnessed by:

James M. Brown

Clara E. Waller

Frederick Washington

May Abner Washington

May and J. Waller

John R. Waller

John B. Brown

Frederick J. Brown

State of Maryland

Baltimore County, 13-2-41

I hereby certify that on this nineteenth day of February in the year Nineteen hundred and ten (1910) before me, the undersigned, a Justice of the Peace of the State of Maryland, in and for Baltimore County, appeared personally appeared Clara E. Waller, Frederick Washington and May Abner Washington, and May and John B. Waller, and John R. Brown and Frederick J. Brown, and as Justice to the foregoing instrument of Writing, and as such acknowledged the same to be their respective act.

Acknowledged By:

Samuel H. Brown.

Attorney of the Deed.

Recorded April 6th 1910 at 8 30 A.M. and Cert.
Geo. Williamson? Not to BookDELIVERED
MAR 18 1911

1325

John O. Brown
Deed 175
Custume of DeedsThis Deed is made on this
15th day of April 1910, by John
O. Brown, widower, of Baltimore
County, in the State of Maryland

as party of the first part, and Custume of Deeds
widower of Baltimore County, in the State of Maryland,
as party of the second part. Whereby that for
and in consideration of the sum of Five Dollars
and other good and valuable consideration, the said
John O. Brown doth hereby grant and convey unto the
said Custume of Deeds, his heirs and assigns,
with example all those two tracts of land lying in
the Fifth Election District of Baltimore County, severally
described as follows: "I bid all that tract of land
lying in the Fifth Election District of Baltimore County
being part of a larger tract of land embracing in
all forty-two acres, parts of Land No. 1; "Willie
Beights"; "Hunt-Wing"; "Haines Road"; "Cable's Subdivision"
which said tract of Land being at 2, above, marked
A, set apart to the end of thirty-six acres, on the
North side of the same, and one-half acre, see East square, four
and seven tenths the measurement of the whole Block
(Red) shown on each of said, and running thence on
the southern of said farm including parts of Lots
Nos. 5, No. 6 and No. 7 and all of Lots No. 8 and No. 9
the ten following acres to, corresponding with the
same (improvements of 1915) North side, four
and three tenths acres East forty-nine Acres
to A, third, marked C at the end thereof North
Twenty-three and one fourth, degress West, nineteen
and four tenths acres to, at stone, marked B,
North side, five degress East, seventy-two Acres to
a stone North thirty-two degress East twenty-six
and three tenths degress to, at stone North; thence de-
gress West, twelve and one half, degress to a stone
North eight and one fourth degress West, thirty-six
acres to a stone North; thence degress East and one fourth
degress East, sixty-seven, and one tenth, degress to a stone

WHEN RECORDED RETURN TO:

Russel A. Kahn and Brenda Kahn
14225 Longnecker Road
Glyndon, MD 21071

3840-06-00155

NO TITLE CERTIFICATION MADE BY PREPARER
DEED PREPARED WITHOUT LIABILITY TO GRANTEE OR GRANTOR

THIS DEED, Made this 31st day of January, 2006, by and between Russel A. Kahn, party of the first part, Grantor, and Russel A. Kahn and Brenda Kahn, parties of the second part, Grantees.

WITNESSETH, that in consideration of the sum of ZERO DOLLARS (\$0.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, the said party of the first part does grant and convey unto the said parties of the second part, as tenants by the entireties, their assigns, the survivor of them, and their heirs, Personal Representatives and assigns, in fee simple, all that lot or parcel of ground situate in Baltimore County, State of Maryland, and described as follows:

BEGINNING for the same at a stone at the beginning point described in a Deed from Justamere Lodge, Inc. to C. David Rohde and wife dated June 9, 1965 and recorded among the Land Records of Baltimore County in Liber R.R.G. No. 4469, folio 380 ect., running thence binding on that deed the two following lines; North 47 degrees 30 minutes 20 seconds East 576.03' to a concrete monument and North 54 degrees 12 minutes 30 seconds East 86.63' to a pipe at the end of the South 42 degrees 49 minutes 40 seconds East 445.18' line in the 3.981 acre tract of land formerly conveyed by C. David Rohde and wife, thence binding on that line reversely North 42 degrees 49 minutes 40 seconds West 445.18' to a pipe in the centerline of a right of way 16.5' wide, thence binding on the center of said right of way with the use thereof in common with others the four following lines; South 47 degrees 34 minutes West 29.05', South 40 degrees 06 minutes West 337.02', South 31 degrees 53 minutes 30 seconds West 189.12' and South 49 degrees 53 minutes 30 seconds West 120.67' and to intersect the South 39 degrees East 37 1/4 perches lines in the aforementioned deed from Justamere Lodge, Inc. to C. David Rohde and wife at the end of 264.00' running thence binding on that deed South 43 degrees 35 minutes East 334.00' to the place of beginning. Containing five acres and nine hundred thirty-eight thousandths of an acre of land, more or less. The improvements thereon will be known as 14225 Longnecker Road.

BEING the same property which by Deed dated February 04, 2003 and recorded among the Land Records of Baltimore County in Liber No. 18021, folio 22, was granted and conveyed by William W. Victor and Doris L. Victor unto Russel A. Kahn, the Grantor herein.

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

TO HAVE AND TO HOLD the said lots of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said parties of the second part, as tenants by the entireties, their assigns, the survivor of them, and their heirs, Personal Representatives and assigns, in fee simple.

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

WITNESS the hands and seals of the within Grantor and Grantees.

WITNESS:

R. J. Hare

Russel A. Kahn (SEAL)
Russel A. Kahn, Grantor/Grantee

R. J. Hare

Brenda Kahn (SEAL)
Brenda Kahn, Grantee

STATE OF MARYLAND, COUNTY OF Baltimore, to wit:

I HEREBY CERTIFY, That on this 31st day of January, 2006, before me, the subscriber, a Notary Public of the State and jurisdiction aforesaid, personally appeared Russel A. Kahn and Brenda Kahn, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within Deed, who signed the same in my presence, and acknowledged that they executed the same for the purposes therein contained.



by my hand and Notarial Seal.

R. J. Hare
Notary Public

My Commission Expires 9/15/09

This is to certify that the within instrument has been prepared by or under the supervision of the undersigned Maryland Attorney.

Carol Ann Wildesen
Carol Ann Wildesen, Attorney

NRT Mid-Atlantic Title Services, LLC
11350 McCormick Road, Suite 200
Executive Plaza III
Hunt Valley, MD 21031
410-252-1208
File #3840-06-00155

0023508 203

☐ Check Box if Addendum Intake Form is Attached

IMP FD SIRE	20.00
RECORDING FEE	20.00
TOTAL	40.00
Reg: BARS	Ref: 97464
SN IK	Blk: 1023
Pr ID: 2026	02:48 29

☒ COUNTY TRANSFER TAX
 Per [Signature] Sec 33-139
 0203 P.P. ART 12-108 (Image available as
☒ RECORDATION TAX
 Per [Signature] T.P. ART 12-108
 Date 3/9/2006

WHEN RECORDED RETURN TO:

2300478R

Russell A. Kahn
9 Windmill Chase, Apt. G
Sparks, MD 21150

THIS DEED, Made this 4th day of February, 2003, by and between William W. Victor and Doris L. Victor, parties of the first part, Grantors, and Russel A. Kahn, party of the second part, Grantee.

WITNESSETH, that in consideration of the sum of One Hundred Twenty Nine Thousand Five Hundred and 00/100 DOLLARS (\$129,500.00) and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said parties of the first part do grant and convey unto the said party of the second part, his heirs, Personal Representatives and assigns, in fee simple, all that lot or parcel of ground situate in Baltimore County, State of Maryland, and described as follows:

See Schedule A

BEING the same property which by Deed dated June 18, 1973 and recorded among the Land Records of Baltimore County in Liber E.H.K., Jr. No. 5369, folio 442, was granted and conveyed by Samuel W. von Gunten and Evelyn T. von Gunten unto William W. Victor and Doris L. Victor, the Grantors herein.

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

TO HAVE AND TO HOLD the said lots of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said party of the second part, his heirs, Personal Representatives and assigns, in fee simple.

AND the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever to encumber the property hereby conveyed; that they will warrant specially the property granted and that they will execute such further assurances of the same as may be requisite.

This is to certify that the within instrument has been prepared by or under the supervision of the undersigned Maryland Attorney.

Carol Ann Wildesen
Carol Ann Wildesen, Attorney

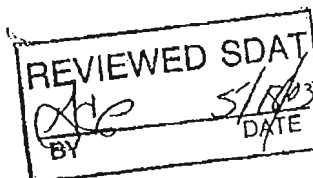


Exhibit "A"

BEGINNING for the same at a stone at the beginning point described in a Deed from Justamere Lodge, Inc. to C. David Rohde and wife dated June 9, 1965 and recorded among the Land Records of Baltimore County in Liber R.R.G. No. 4469, folio 380, etc., running thence binding on that deed the two following lines, North 47 degrees 30 minutes 20 seconds East 576.03' to a concrete monument and North 54 degrees 12 minutes 30 seconds East 86.63' to a pipe at the end of the South 42 degrees 49 minutes 40 seconds East 445.18' line in the 3.981 acre trace of land formerly conveyed by C. David Rohde and wife, thence binding on that line reversely North 42 degrees 49 minutes 40 seconds West 445.18' to a pipe in the centerline of a right of way 16.5' wide, thence binding on the center of said right of way with the use thereof in common with others the four following lines, South 47 degrees 34 minutes West 29.05', South 40 degrees 06 minutes West 337.02', South 31 degrees 53 minutes 30 seconds West 189.12' and South 49 degrees 53 minutes 30 seconds West 120.67' and to intersect the South 39 degrees East 37 1/4 perches lines in the aforementioned deed from Justamere Lodge, Inc. to C. David Rohde and wife at the end of 264.00', running thence binding on that deed South 43 degrees 35 minutes East 334.00' to the place of beginning. Containing five acres and nine hundred thirty-eight thousandths of an acre of land, more or less.

The improvements thereon will be known as No. 14225 Longnecker Road.

WITNESS the hands and seals of the within Grantors.

WITNESS:

William W. Victor *William W. Victor* (SEAL)
William W. Victor

Doris L. Victor *Doris L. Victor* (SEAL)
Doris L. Victor

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, That on this 4th day of February, 2003, before me, the subscriber, a Notary Public of the State and jurisdiction aforesaid, personally appeared William W. Victor and Doris L. Victor, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within Deed, who signed the same in my presence, and acknowledged that they executed the same for the purposes therein contained.

AS WITNESS my hand and Notarial Seal.

Carrie R. Goodman
Notary Public

My Commission Expires: 11/1/2004

NRT Mid-Atlantic Title Services, LLC
11350 McConick Road, Suite 200
Executive Plaza III
Hunt Valley, MD 21031
410-252-1208
File #2300478R



0018021 025

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: Baltimore

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

1	Type(s) of Instruments	☐ Check, Box if Addendum-Intake Form is Attached ☒ Deed ☐ Mortgage ☐ Other _____ ☐ Deed of Trust ☐ Lease ☐ Other _____		THE FD SURE \$ 5.00 RECORDING FEE 20.00 TRANSFER TAX STATE 647.50 TOTAL 672.50 Rec'd BAGO Rpt # 31123 State RC Bill # 3524 May 19, 2003 09:25 am																																																																																																																																																																		
2	Conveyance Type Check Box	☒ Improved Sale ☐ Unimproved Sale ☐ Multiple Accounts ☐ Not an Arms-Length Sale Arms-Length (1) Arms-Length (2) Arms-Length (3) Length Sale (9)																																																																																																																																																																				
3	Tax Exemptions (if Applicable) Cite or Explain Authority	☐ Recordation ☐ State Transfer ☐ County Transfer																																																																																																																																																																				
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THIS DEED, Made this 18th day of June, in the year nineteen hundred and seventy-three, by and between SAMUEL W. von GUNTEN and EVELYN T. von GUNTEN, his wife, of Baltimore County, State of Maryland, parties of the first part, and WILLIAM W. VICTOR and DORIS L. VICTOR, his wife, of Baltimore County, State of Maryland, parties of the second part.

WITNESSETH, That in consideration of the sum of Five Dollars and other good and valuable considerations, this day paid, the receipt whereof is hereby acknowledged, the said SAMUEL W. von GUNTEN and EVELYN T. von GUNTEN, his wife, do grant and convey unto the said WILLIAM W. VICTOR and DORIS L. VICTOR, his wife, as tenants by the entireties, their assigns, the survivor of them, and the heirs and assigns of the survivor, in fee simple, all that parcel of ground situate, lying, and being in the Fourth Election District of Baltimore County, State of Maryland, and described as follows, that is to say:

BEGINNING for the same at a stone at the beginning point described in a Deed from Justamere Lodge, Inc. to C. David Rohde and wife dated June 9, 1965, and recorded among the Land Records of Baltimore County in Liber R.R.G. No. 4469, folio 380, etc., running thence binding on that deed the two following lines, North 47 degrees 30 minutes 20 seconds East 576.03 feet to a concrete monument and North 54 degrees 12 minutes 30 seconds East 86.63 feet to a pipe at the end of the South 42 degrees 49 minutes 40 seconds East 445.18 foot line in the 3.981 acre tract of land formerly conveyed by C. David Rohde and wife, thence binding on that line reversely North 42 degrees 49 minutes 40 seconds West 445.18 feet to a pipe in the centerline of a right of way 16.5 feet wide, thence binding on the center of said right of way with the use thereof in common with others the four following lines, South 47 degrees 34 minutes West 29.05 feet, South 40 degrees 06 minutes West 337.02 feet, South 31 degrees 53 minutes 30 seconds West 189.12 feet and South 49 degrees 01 minute 30 seconds West 120.67 feet and to intersect the South 39 degrees East 37-3/4 perches line in the aforementioned deed from Justamere Lodge, Inc. to C. David Rohde and wife at the end of 264.00 feet, running thence binding on that deed South 43 degrees 35 minutes East 344.00 feet to the place of beginning. Containing five acres, and nine hundred thirty-eight thousandths of an acre of land, more or less.

JUN 22 1973

195.00 MSC

-2-

SUBJECT, however, to the southernmost half of the above mentioned right of way 16.5 feet wide.

ALSO, the right to use in common with others a right of way 16.5 feet wide leading to the County Road, which runs from Piney Grove to St. Johns Church and as recited in an Agreement dated February 19, 1910, between Clara E. Walter, et al. (See W.P.C. No. 359, folio 52),

BEING all and the same property which by Deed dated June 30, 1971, and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 5202, folio 857, was granted and conveyed by C. David Rohde and wife unto the said Samuel W. von Gunten and Evelyn T. von Gunten, his wife, in fee simple.

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

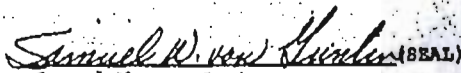
TO HAVE AND TO HOLD the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances, and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said WILLIAM W. VICTOR and DORIS L. VICTOR, his wife, as tenants by the entireties, their assigns, the survivor of them, and the heirs and assigns of the survivor, in fee simple.

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

AS WITNESS the hands and seals of said Grantors.

WITNESS:


Patricia A. Grimes

 (SEAL)
Samuel W. von Gunten
 (SEAL)
Evelyn T. von Gunten

-3-

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, That on this 18th day of June, 1973,
before me, a Notary Public of the State aforesaid, personally
appeared SAMUEL W. von GUNTEN and EVELYN T. von GUNTEN, his wife,
known to me (or satisfactorily proven) to be the persons whose names
are subscribed to the within instrument, who signed the same in my
presence, and acknowledged that they executed the same for the
purposes therein contained.

AS WITNESS my hand and Notarial Seal.



Patricia A. Grimes
Patricia A. Grimes,
Notary Public

MY COMMISSION EXPIRES JULY 1, 1975

0511**** 2363492 11-22 NY
0059**** 2363492 11-22 NY
0652**** 2363492 11-22 NY
0461**** 2363492 11-22 NY

Rec'd for record JUN 22 1973 at 11³¹ PM
Per Elmer M. Kahline, Jr., Clerk
Mail to DOWNES & DETZ
Receipt No. 11-50

REAL ESTATE-TITLE COMPANY,
INCORPORATED
Empire Building
Baltimore, Md.
LE 5-3118

App. 89260

App. No. _____



THE COMPLETE DEED

This Deed, Made this 30th day of June
In the year one thousand nine hundred and seventy-one by and between G. David Rohde and Olwen S. Rohde, his wife, parties of the first part; and Samuel W. von Ounten and Evelyn T. von Ounten, his wife, parties of the second part.

AL 20-71 214270# ****73.75
AL 20-71 214270# ****37.50
AL 20-71 214269# ****24.75
AL 20-71 214268# ****11.50

WITNESSETH that in consideration of the sum of five dollars, and other good and valuable considerations, the receipt of which is hereby acknowledged, the said parties of the first part herein

do grant and convey unto said parties of the second part, as tenants by the entireties, their assigns, the survivor of them and the heirs and assigns of the survivor of them ~~the whole of the~~ in fee-simple, all that lot or parcel of ground ----- situate, lying and being in Fourth Election District of Baltimore County, Md. and described as follows, that is to say,

BEGINNING for the same at a stone at the beginning point described in a deed from Justamere Lodge, Inc. to G. David Rohde and wife, dated June 9, 1965 and recorded among the Land Records of Baltimore County in Liber RRO 4469 folio 380 etc., running thence binding on that deed the two following lines, North 47 degrees, 30 minutes 20 seconds East 576.03 feet to a concrete monument and North 54 degrees 12 minutes 30 seconds East 86.63 feet to a pipe at the end of the south 42 degrees 49 minutes 40 seconds East 445.18 foot line in the 3.981 acre tract of land formerly conveyed by G. David Rohde and wife thence binding on that line reversely North 42 degrees 49 minutes 40 seconds West 445.18 feet to a pipe in the centerline of a right of way 16.5 feet wide, thence binding on the center of said right of way with the use thereof in common with others the four following lines, South 47 degrees, 34 minutes West 29.05 feet, south 40 degrees 06 minutes West 337.02 feet, south 31 degrees 53 minutes 30 seconds West 189.12 feet and South 49 degrees 01 minute 30 seconds West 120.67 feet and to intersect the south 39 degrees East 37-3/4 perches line in the aforementioned deed from Justamere Lodge, Inc. to G. David Rohde and wife at the end of 264.00 feet, running thence binding on that deed south 43 degrees 35 minutes East 344.00 feet to the place of beginning, containing five acres and nine hundred thirty-eight thousandths of an acre of land, more or less.

Subject however to the southernmost half of the above mentioned right of way 16.5 feet wide.

Also the right to use in common with others a right of way 16.5 feet wide leading to the County Road which runs from Piney Grove to St. Johns Church and as recited in an agreement dated February 19, 1910 between Olava E. Walter et al (See W P O 359 folio 52)

JUN 27 5 59 AM '71

11250 HSC

BEING A PART OF THE SAME LAND DESCRIBED IN THE ABOVE MENTIONED DEED FROM
Justamere Lodge, Inc. to G. David Rohde and Olwen S. Rohde, his wife, dated
June 9, 1965 and recorded among Land Records of Baltimore County in Liber
220 1469 folio 380 etc.

AS PREPARED May 31, 1971 from a survey dated April 9, 1968.

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 in any wise appertaining.

TO HAVE AND TO HOLD the said lot of ground and premises; above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said parties of the second part, as tenants by the entireties, their assigns, the survivor of them and the heirs and assigns of the survivor of them in fee simple.

AND the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted, and that they will execute such further assurances of the same as may be requisite.

WITNESS the hands and seals of said grantors the day and year first above written.

Test:

[Signature]

[Signature] (SEAL)
O. David Rohde
[Signature] (SEAL)
Olwen S. Rohde
(SEAL)

STATE OF MARYLAND, City of Baltimore

TO WIT:

I HEREBY CERTIFY, that on this 30th day of June

in the year one thousand nine hundred and seventy-one before me, the subscriber,

a Notary Public of the State of Maryland, in and for

aforesaid, personally appeared

O. David Rohde and Olwen S. Rohde, his wife, grantors herein

and they acknowledged the foregoing Deed to be their act.

Witness my hand and notarial seal the day and year last above written.

[Signature]
Notary Public
JUL 20 1971
Per Oleville T. Soanell, Clerk
Mail to REAL ESTATE TITLE CO., INC.
Receipt No. 1152



This Deed, Made this 9th day of Jan 8

In the year one thousand nine hundred and sixty-five, by and between

JUSTAMERE LODGE, INC., a body corporate

of the State of Maryland, of the first part, and

C. DAVID ROLHE and OLWEN S. ROLHE, his wife

of the second part.

Witnesseth, that in consideration of the sum of Five (\$5.00) Dollars and other good and valuable consideration, the receipt of which is hereby acknowledged,

the said party of the first part

do th grant and convey unto the said parties of the second part, as tenants by the entireties, their assigns and unto the survivor of them, his or her

heirs and assigns, in fee simple, all that lot of ground, situate, lying and being in Baltimore County, State of Maryland, aforesaid, and described as follows, that is to say:—

Beginning for the same at the end of 45 perches on the North 48 degrees East 80 perches line of the whole tract of land and running thence bounding on said line with 3 1/4 degrees allowance for variation North 51 1/4 degrees East 35 perches, thence bounding on the given line of the whole tract of land North 58 degrees East 100 perches to the beginning of said whole tract of land, thence bounding on the outlines of the whole tract of land called Creaghs Addition with 1 1/4 degrees allowance for variation North 62 3/4 degrees West 4 perches North 33 3/4 degrees West 21 1/10 perches to the end of the South 33 3/4 degrees East 14 9/10 perches line of a parcel of land agreed to be sold by Mary G. Worthington, et al to Joseph Landon and running thence bounding on the land of said Landon's parcel of land South 68 1/4 degrees West 100 perches South 48 3/4 degrees West 38 9/10 perches to intersect a line drawn North 39 degrees West from the beginning, thence reversing said line and bounding thereon South 39 degrees East 37 3/4 perches to the place of beginning. Containing 28 acres of land more or less.

Saving and excepting, however, that tract of land which, by Deed dated December 15, 1930, and recorded among the Land Records of Baltimore County in Liber L.M.L.M. No. 867, folio 404 etc. Containing 2.534 acres of land more or less, was conveyed by Elizabeth J. Osborn to the Susquehanna Transmission Company.

Together with a right of way 16 1/2 feet wide leading to the County Road which runs from Piney Grove to St. Johns Church and as recited in an agreement dated February 19, 1910 between Clara E. Walter, et al. (See W.P.C. No. 359, folio 52).

BEING the same parcel of land which by Deed dated August 2, 1951 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2002, folio 426, was granted and conveyed by William D. White and Florence D. White, unto the grantor herein.

ALB 73 26 JAN 10

4 2.00 MSC

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

To Have and To Hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said

C. DAVID ROHDE and OLWEN S. ROHDE, his wife, as tenants by the entireties, their assigns and unto the survivor of them, his or her

heirs and assigns, in fee simple.

And the said party of the first part hereby covenants that ~~xxx~~ it has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that ~~he~~ it will warrant specially the property granted and that ~~he~~ it will execute such further assurances of the same as may be requisite.

Witness the hand and seal of ~~xxx~~ WILLIAM D. WHITE,
President of said body corporate.

TEST:

Handwritten signatures of witnesses
KENNETH D. SUFFICIENT
MILTON E. SUFFICIENT

JUSTAMERE LODGE, INC.
BY: *Handwritten signature* (SEAL)
WILLIAM D. WHITE President
(SEAL)

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY, That on this 9th day of June, 1965, in the year one thousand nine hundred and sixty-five, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County of Baltimore aforesaid, personally appeared WILLIAM D. WHITE, President of JUSTAMERE LODGE, INC.

the above named grantor, and he acknowledged the foregoing Deed to be its act.

As Witness my hand and Notarial Seal.



Handwritten signature
Notary Public
Rec'd for record JUN 10 1965 at 10:27 AM
Per Robert S. Gill, Clerk
Mail to: M. C. Hammond
Receipt No. 185595 835

This Deed, Made this 2nd day of August, 1902 PAGE 426

In the year one thousand nine hundred and fifty-one, by and between WILLIAM D. WHITE and FLORENCE D. WHITE, his wife, of Baltimore City

of the State of Maryland, of the first part, and JUSTAMEN LODGE, INC., a body Corporate of the State of Maryland, of the second part.

Witnesseth, that in consideration of the sum of Five (\$5.00) Dollars and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said William D. White and Florence D. White, his wife,

do grant and convey unto the said Justamen Lodge, Inc., its successors

heirs and assigns, in fee simple, all that parcel of ground, situate, lying and being in Baltimore County, State of Maryland, aforesaid, and described as follows, that is to say:—

Beginning for the same at the end of 45 perches on the north 48 degrees east 80 perches line of the whole tract of land and running thence bounding on said line with 3-1/4 degrees allowance for variation north 51-1/4 degrees east 35 perches, thence bounding on the given line of the whole tract of land north 50 degrees east 100 perches to the beginning of said whole tract of land, thence bounding on the outline of the whole tract of land called Craggs Addition with 1-1/4 degree allowance for variation north 62-3/4 degrees west 4 perches north 33-3/4 degrees west 21-1/10 perches to the end of the south 33-3/4 degrees east 14-9/10 perches line of a parcel of land agreed to be sold by Mary D. Worthington, et al to Joseph London and running thence bounding on the land of said London's parcel of land south 33-1/4 degrees west 100 perches south 48-3/4 degrees west 38-9/10 perches to intersect a line drawn north 35 degrees west from the beginning, thence reversing said line and bounding thence south 39 degrees east 27-3/4 perches to the place of beginning. Containing 23 acres of land more or less.

Saving and excepting, however, that tract of land which, by Deed dated September 15, 1900, and recorded among the Land Records of Baltimore County in Liber L.M.L.M. No. 267, folio 404 etc., containing 2.554 acres of land more or less, was conveyed by Elizabeth J. Osborn to the Susquehanna Transmission Company.

Together with a right of way 16-1/2 feet wide leading to the County Road which runs from Piney Grove to St. Johns Church and as recited in an agreement dated February 19, 1910 between Gary E. Walter, et al. (See M.D.C. No. 159, folio 52).

Being the same lot or parcel of land which by Deed of even date herewith and recorded or intended to be recorded immediately prior hereto among the Land Records of Baltimore County, was granted and conveyed by Essie Amelia Osborn unto the said William D. White and Florence D. White, his wife.

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

To Have and To Hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Justware Lodge, Inc., its successors

heirs and assigns, in fee simple.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property granted and that they will execute such further assurances of the same as may be requisite.

Witness the hands and seals of said grantors.

TEST:

M. Ellen Andrews
M. Ellen Andrews

William D. White (SEAL)
William D. White

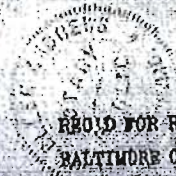
Florence D. White (SEAL)
Florence D. White

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, That on this 2nd day of August, in the year one thousand nine hundred and fifty-one, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County aforesaid, personally appeared William D. White and Florence D. White, his wife,

the above named grantors, and they acknowledged the foregoing Deed to be their act

As Witness my hand and Notarial Seal.



M. Ellen Andrews
M. Ellen Andrews
Notary Public

RECORDED FOR RECORD Aug 15, 1951 - 10A M. & RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY, LIBER Q.L.B. 200Y FOLIO 426 GEORGE L. BYERLY, CLERK

LIBER 2000 PAGE 1

This Deed, Made this *2nd* day of August,

in the year one thousand nine hundred and fifty-one, by and between BESSIE AMELIA OSBORN, Unmarried,

of Baltimore County, in the State of Maryland, of the first part, and WILLIAM D. WHITE and FLORENCE D. WHITE, his wife, of the second part.

Witnesseth, that in consideration of the sum of Five (\$5.00) Dollars and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said Bessie Amelia Osborn, Unmarried,

does grant and convey unto the said William D. White and Florence D. White, his wife, their heirs and assigns, the survivor of them, and the survivor's



heirs and assigns, in fee simple, all that parcel of ground, situate, lying and being in Baltimore County, State of Maryland, aforesaid, and described as follows, that is to say:—

Beginning for the same at the end of 45 perches on the north 48 degrees east 80 perches line of the whole tract of land and running thence bounding on said line with 3-1/4 degrees allowance for variation north 51-1/4 degrees east 35 perches, thence bounding on the given line of the whole tract of land north 58 degrees east 100 perches to the beginning of said whole tract of land, thence bounding of the outlines of the whole tract of land called Creaghs Addition with 1-1/4 degree allowance for variation north 62-3/4 degrees west 4 perches north 33-3/4 degrees west 22-1/10 perches to the end of the south 32-3/4 degrees east 14-9/10 perches line of a parcel of land agreed to be sold by Mary D. Worthington et al to Joseph Landon and running thence bounding on the land of said Landon's parcel of land south 68-1/4 degrees west 100 perches south 48-3/4 degrees west 32-9/10 perches to intersect a line drawn north 39 degrees west from the beginning, thence reversing said line and bounding thereon south 39 degrees east 37-3/4 perches to the place of beginning. Containing twenty-eight acres of land, more or less.

Saving and excepting, however, that tract of land, which by Deed dated 12/15/30 and recorded among the Land Records of Baltimore County in Liber L.M.L.M No. 867, folio 404, etc. Containing 2.534 acres of land more or less, was conveyed by Elizabeth J. Osborn to the Chesapeake Transmission Company.

Together with a right of way 16-1/2 feet wide leading to the County Road which runs from Piney Grove to St. Johns Church and as recited in an agreement dated 2/19/1918 between Clara E. Walter, et al, (See W.P.C. 359, folio 52.).

Being the same parcel of land, which by Deed dated the 16th day of January, 1934, was granted and conveyed by Henry C. Osborn and Bessie A. Osborn, Executors, et al, unto the said Bessie Amelia Osborn. See the Land Records of Baltimore County, Liber C.V.D., Jr. No. 291, folio 294.

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

To Have and To Hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said William D. White and Florence D. White, his wife, their heirs and assigns, the survivor of them, and the survivor's

heirs and assigns, in fee simple.

And the said party of the first part hereby covenants that she has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that she will warrant specially the property granted and that she will execute such further assurances of the same as may be requisite.

Witness the hand and seal of said grantor

TEST:

M. Ellen Andrews
M. Ellen Andrews

Bessie Amelia Osborn (SEAL)
Bessie Amelia Osborn

H. (SEAL)

STATE OF MARYLAND, County of Baltimore, to wit:
I HEREBY CERTIFY, That on this 2nd day of August, in the year one thousand nine hundred and fifty-one, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County aforesaid, personally appeared Bessie Amelia Osborn,

the above named grantor, and she acknowledged the foregoing Deed to be her act.

As Witness my hand and Notarial Seal.



M. Ellen Andrews
M. Ellen Andrews
Notary Public

REQ'D FOR RECORD August 7, 1951 12:40 P.M. & RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY, LIBER G.L.B. 2000 FOLIO 1 GEORGE L. BYERLY, CLERK.

For value received we hereby release the within and foregoing mortgage.

As witness our hands and seals this 16 day of January 1962.

Witness R Harold Osborn

Bessie A Osborn (SEAL)

Lillian O Osborn (SEAL)

Rec Feb 14 1962 at 11:16 AM & cxd per George L Byerly clerk recd by jbm del
2/14/62

DEL PER RECORD 3 - 1564

17490

Harry C Osborn et al

Deed to

Bessie A Osborn

U S R Stamp \$4.50

This Deed Made this 16th day of January 1934 by Harry C Osborn and Bessie A Osborn Executors of the last Will and Testament of Elizabeth J Osborn deceased of Baltimore County State of Maryland parties of the first part and Harry C Osborn individually and Bessie R Osborn his wife Leonel R Osborn and Goldie V Osborn his wife John Charles Osborn and Beulah Osborn his wife Hattie V Belt and E Ward Belt her husband Jane P Peltzer and John Henry Peltzer her husband Sarah Edna Ensor and Arthur Ensor her husband and Lillian O Osborn unmarried parties of the second part all of Baltimore County Md and Bessie Amelia Osborn of the same County and State as party of the third part Grantee

Witnesseth whereas Elizabeth J Osborn died seized and possessed of the property hereinafter described leaving a last Will and Testament dated May 21st 1931 and recorded in the office of the Register of Wills for Baltimore County in Liber J P C No 28 folio 226 etc whereby said testator nominated Harry C Osborn and Bessie A Osborn Executors with full power to sell the real estate hereinafter mentioned and whereas the said Harry C Osborn and Bessie A Osborn Executors by virtue of and in the exercise of the power of sale hereinbefore set forth have sold unto the said Bessie Amelia Osborn the property hereinafter described at and for the sum of \$200.00 and the purchase price having been fully paid unto the parties of the first part and said sale duly reported and ratified by the Orphans Court for Baltimore County and whereas the parties of the second part are the sole heirs at law of the said Elizabeth J Osborn deceased and of full legal age they unite in these presents

Now therefore this deed Witnesseth that for and in consideration of the sum of \$200.00 and other good and valuable considerations the receipt of which is hereby acknowledged the said Harry C Osborn and Bessie Amelia Osborn Executors of the last Will and Testament of Elizabeth J Osborn deceased and Harry C Osborn individually and Bessie R Osborn his wife Leonel R Osborn and Goldie V Osborn his wife John Charles Osborn and Beulah Osborn his wife Hattie V Belt and E Ward Belt her husband Jane P Peltzer and John Henry Peltzer her husband Sarah Edna Ensor and Arthur Ensor her husband Lillian O Osborn unmarried do grant and convey unto the said Bessie Amelia Osborn her heirs and assigns in fee simple all that parcel of land situated in the Fourth Election District of Baltimore County Md and more particularly described as follows

Beginning for the same at the end of 45 perches on the north 48 degrees east 80 perches

line of the whole tract of land and running thence bounding on said line with three and one fourth degrees allowance for variation north $51\frac{1}{4}$ degrees east 35 perches thence bounding on the given line of said whole tract of land north 58 degrees east 100 perches to the beginning of said whole tract of land thence bounding on the outlines of said whole tract of land called Greaghs Addition with $1-1/4$ degrees allowance for variation north $62\frac{1}{4}$ degrees west 4 perches north $53\frac{1}{4}$ degrees west $2141/10$ perches to the end of the south $53\frac{1}{4}$ degrees east $14-9/10$ perches line of a partial of land agreed to be sold by Mary G Worthington et al to Joseph Landon and running thence bounding on the land of said Landons parcel of land south $68\frac{1}{4}$ degrees west 100 perches south $46\frac{1}{4}$ degrees west $58-9/10$ perches to intersect a line drawn north 39 degrees west from the beginning thence reversing said line and bounding thereon south 39 degrees east $57\frac{1}{4}$ perches to the place of beginning Containing 28 acres of land more or less

Saving and Excepting however that tract of land which by deed dated Dec 15th 1930 and recorded among the Land Records of Baltimore County in Liber L MoL M No 867 folio 404 etc containing 2.534 acres of land more or less was conveyed by Elizabeth J Osborn to the Susquehanna Transmission Company

Together with a right of way $16\frac{1}{4}$ feet wide leading to the County Road which runs from Piney Grove to St Johns Church and as recited in an agreement dated Feb 19th 1910 between Clara E Walter et al See W P C 359 folio 52

Together with the buildings and improvements thereupon erected and all and every the rights ways waters roads privileges appurtenances and advantages to the same belonging or in anywise appertaining

To have and to hold the aforesaid parcel of land with the privileges appurtenances and advantages as aforesaid unto and to the proper use and benefit of the said Bessie Amelie Osborn her heirs and assigns in fee simple

And the said parties of the first and second part hereby covenant that they will warrant specially the property hereby conveyed and that they will execute such further assurances of the same as may be requisite

Witness the hands and seals of said grantors

Bessie A Osborn (SEAL)

Executrix

Harry C Osborn (SEAL)

Individually & as Executor

Bessie R Osborn (SEAL)

Leonel R Osborn (SEAL)

Goldie V Osborn (SEAL)

John Charles Osborn (SEAL)

Beulah E Osborn (SEAL)

Hattie V Belt (SEAL)

E Ward Belt (SEAL)

Jane P Peltzer (SEAL)

John Henry X Peltzer (SEAL)

Sarah Edna Ensor (SEAL)

Arthur Ensor (SEAL)

Lillian O Osborn (SEAL)

Test

Gwynn Nelson

As to all signatures

State of Maryland Baltimore County to wit

SEE SIMPLE DEED-TENANCY BY THE ENTIRETY.

AL 12-71 2126604 ***30050
 AL 12-71 2126604 ***17350
 AL 12-71 2126590 ***11550
 AL 12-71 2126580 ***1150

This Deed, Made this 8th day of July

In the year one thousand nine hundred and seventy-one by - - - - -

✓ C. DAVID ROHDE and OLWEN S. ROHDE, his wife - - - - -

of Baltimore County, in the State of Maryland, parties of the first part, and

✓ F. EVANS BILDSTEIN and JOAN K. BILDSTEIN, his wife - - - - -

of Baltimore County, in the State of Maryland, parties of the second part.

Witnesseth, That in consideration of the sum of five dollars, and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said parties of the first part do grant and convey unto the said parties of the second part, as tenants by the entireties, their assigns, the survivor of them, his or her heirs and assigns in fee-simple, all that lot of ground situate, lying and being in Baltimore County and described as follows, that is to say: BEGINNING FOR THE same at the end of the south 48 degrees 45 minutes West 38.9 perches line as described in a deed from Justamere Lodge, Inc. to C. David Rohde and wife, dated June 9, 1965, and recorded among the Land Records of Baltimore County in Liber R.R.G. No. 4469 folio 380 running thence binding on that deed, south 43 degrees 35 minutes East 264.00 feet to the center of a right of way, 16.5 feet wide, thence running in the center of said right of way, with the use thereof in common, the four following lines, North 49 degrees 01 minute 30 seconds East 120.67 feet, north 31 degrees 53 minutes 30 seconds East 189.12 feet, north 40 degrees 06 minutes East 337.02 feet and North 47 degrees 34 minutes East 29.05 feet to a pipe, thence by a line of division as now computed, North 52 degrees 32 minutes West 219.36 feet and to the end of the south 68 degrees 15 minutes West 100 perch line in the first above mentioned deed, thence binding on that deed as now computed to follow the same, South 43 degrees 36 minutes West 634.28 feet to the place of beginning. Containing three acres and six hundred twenty-six thousandths of an acre of land more or less.

Subject, however, to the northwesternmost half of the above mentioned right-of-way 16.5 feet wide.

AL 01-08 JUL 9

52050 HSC

6/10/09 08-425-SPHA Ret. Exh. 7

Being a part of all that lot of ground which by deed dated June 9, 1965, and recorded among the Land Records of Baltimore County in Liber R.R.G. 4469 folio 380 was granted and conveyed by Justanere Lodge, Inc. unto the within named grantors.

Together with the use of a right of way, 16.5 feet wide, leading to the County Road which runs from Piney Grove to St. Johns Church and as recited in an agreement dated February 19, 1910, between Clara E. Walter, et al as recorded in Liber W.P.C. 339 folio 52.

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 in any wise appertaining.

To Have and To Hold said lot of ground and premises above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said parties of the second part, as tenants by the entireties, their assigns, the survivor of them, his or her heirs and assigns, in fee-simple.

And the said Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

Witness the hands and seals of said Grantors.

Test:

Clara E. Walter }
C. DAVID ROHDE (Seal)
Olwen S. Rohde }
OLWEN S. ROHDE (Seal)

(Seal)

(Seal)

State of Maryland, Baltimore County, to wit:

I HEREBY CERTIFY, That on this 8th day of July
in the year one thousand nine hundred and seventy-one before me, the subscriber,
a Notary Public of the State of Maryland, in and for Baltimore County, aforesaid
personally appeared C. DAVID ROHDE and OLWEN S. ROHDE, his wife - - - - -

and they acknowledged the foregoing Deed to be their act.

As witness my hand and Notarial Seal.



Bernadine C. Boder
Notary Public.

Rec'd for record JUL 12 1971 at 12:29 PM
Per Orville T. Coonell, Clerk
Mail to: *Harris & Boat*
Receipt No. 9 11.50

FEE-SIMPLE DEED—CODE—City or County



This Deed, Made this 19th day of April

in the year one thousand nine hundred and sixty-eight, by and between
C. DAVID ROHDE and OLWEN S. ROHDE, his wife,



of Baltimore County in the State of Maryland, of the first part, and
DOUGLAS R. GRICE and H. JOAN GRICE, his wife, of Baltimore City,
State of Maryland,

of the second part.

Witnesseth, That in consideration of the sum of Five (\$5.00) Dollars and other good
and valuable considerations, the receipt whereof is hereby acknowledged,

the said parties of the first part

do grant and convey unto the said parties of the second part, as tenants by
the entireties, their assigns, the survivor of them, said survivor's

heirs and assigns, in fee simple, all that lot of ground, situate, lying and being in
the Fourth Election District,
Baltimore County, State of Maryland, aforesaid, and described as follows, that is to say:—

Beginning for the same at a pipe at the end of 86.63 feet in the North 58
degrees East 100 perches line as described in a Deed from Justamere
Lodge, Inc. to C. David Rohde and wife, dated June 9, 1965, recorded
among the Land Records of Baltimore County in Liber R.R.G. No. 4469
folio 380 etc., running thence binding on that Deed as now surveyed, North
54 degrees 12 minutes 30 seconds East 164.49 feet, thence by a line of
division, North 34 degrees 18 minutes East 448.80 feet to the centerline
of a right of way 16.5 feet wide, thence binding on the center of said
right of way as now laid out, with the use thereof in common with
others, the six following lines, North 69 degrees 33 minutes West 51.33
feet to a pipe, South 77 degrees 54 minutes West 236.26 feet to a pipe,
North 89 degrees 46 minutes West 232.29 feet to a pipe, South 76 degrees
05 minutes West 67.94 feet to a pipe, South 52 degrees 37 minutes West
80.18 feet to a pipe and South 47 degrees 34 minutes West 65.34 feet to a
pipe, thence leaving said right of way and running by a line of division,
South 42 degrees 49 minutes 40 seconds East 445.18 feet to the place
of beginning, containing three acres and nine hundred eighty-one
thousandths of an acre (3.981) of land more or less.

SUBJECT, however, to the Southernmost half of the above
mentioned right of way 16.5 feet wide.

ALSO the right to use in common with others, a right of way
16.5 feet wide, the centerline being described as follows:

BEGINNING at the end of the South 47 degrees 34 minutes West
65.34 foot line in the above described parcel and running thence, South
47 degrees 34 minutes West 29.05 feet, South 40 degrees 06 minutes West
337.02 feet, South 31 degrees 53 minutes 30 seconds West 189.12 feet and
South 49 degrees 01 minute 30 seconds West 120.67 feet and to intersect
the South 39 degrees East 37 3/4 perches line in the aforementioned Deed

LIBER 4867

8250

from Justamere Lodge, Inc. to C. David Rohde and wife at the end of 264.00 feet.

the right to use in common with grantors, their heirs and assigns,
TOGETHER with/a right of way 16½ feet wide leading to the County
Road which runs from Piney Grove to St. Johns Church and as recited in
an agreement dated February 19, 1910 between Clara E. Walter, et al.
(See W.P.C. No. 359 folio 52 etc.)

As surveyed April 9, 1968 by C.A. Myers, Surveyor.

BEING a part of the same land described in the above mentioned
Deed from Justamere Lodge, Inc. to C. David Rohde and Olwen S. Rohde,
his wife, dated June 9, 1965, recorded among the Land Records of
Baltimore County in Liber R.R.G. No. 4469, folio 380, etc.

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

To Have and To Hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said parties of the second part, as tenants by the entireties, their assigns, the survivor of them and said survivor's

heirs and assigns, in fee simple.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property granted and that they will execute such further assurances of the same as may be requisite.

Witness the hands and seals of said grantors

TEST:

Enid M. Chasen
Enid M. Chasen

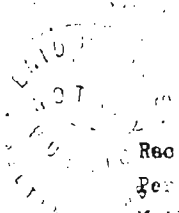
C. David Rohde
C. David Rohde (SEAL)

Olwen S. Rohde
Olwen S. Rohde (SEAL)

STATE OF MARYLAND, CITY OF BALTIMORE, to wit:

I HEREBY CERTIFY, That on this 19th day of April in the year one thousand nine hundred and sixty-eight, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City aforesaid, personally appeared C. DAVID ROHDE and OLWEN S. ROHDE, his wife

the above named grantors, and each acknowledged the foregoing Deed to be their respective act.
As Witness my hand and Notarial Seal.



Enid M. Chasen
Enid M. Chasen Notary Public.

Rec'd for record APR 22 1968 at 12:18 PM
Per Orville T. Gosnell, Clerk
Mail to *Griffen & Plummer*
Receipt No. *18126.8* *8.00*

FEE-SIMPLE DEED -- INDIVIDUAL GRANTOR AND GRANTEE -- 68

This Deed, Made this

8th

day of July

in the year one thousand nine hundred and seventy-one, by and between

C. DAVID ROHDE and OLWEN S. ROHDE, his wife, of Baltimore County

, of the first part, and

DOUGLAS R. GRICE and HARRIETT J. GRICE, His wife, of Baltimore County

of the second part.

Witnesseth, that in consideration of the sum of Five (\$5.00) Dollars and other good and valuable considerations, the receipt of which is hereby acknowledged,

the said C. David Rohde and Olwen S. Rohde, his wife

do hereby grant and convey unto the said Douglas R. Grice and Harriett J. Grice, his wife, as tenants by the entireties, their assigns, the survivor of them, his or her

heirs and assigns,

in fee simple, all that lot of ground, situate, lying and being in

Baltimore County, State of Maryland, and described as follows, that is to say:--

~~RECAPITULATION~~ All that lot or parcel of land situate, lying and being in the Fourth Election District of Baltimore County, State of Maryland, and described as follows, that is to say:

BEGINNING for the same at the end of the South 68 degrees 15 minutes West 100 perch line as described in a Deed from Justamere Lodge, Inc. to C. David Rohde and wife, dated June 9, 1965, recorded among the Land Records of Baltimore County in Liber R.R.G. No. 4489 folio 380 etc., thence by a line of division as now computed, South 52 degrees 32 minutes East 219.36 feet to the center of a right of way, 18.5 feet wide, thence running in the center of said right of way the six following lines, with the use thereof in common with others, North 47 degrees 34 minutes East 85.34 feet, North 52 degrees 37 minutes East 80.18 feet, North 76 degrees 05 minutes East 87.94 feet, South 89 degrees 46 minutes East 232.29 feet to a pipe, North 77 degrees 54 minutes East 236.26 feet to a pipe and South 69 degrees 33 minutes East 51.33 feet to the Northwesternmost right of way line of the Baltimore Gas and Electric Company, thence binding on the Northwest right of way line, measured 225 feet from the center of the existing centerline at right angles, North 34 degrees 18 minutes East 799.58 feet and to intersect the first above mentioned Deed line, thence binding on that line as now computed, South 83 degrees 05 minutes 30 seconds West 1472.92 feet to the place of beginning, containing seven acres and two hundred twenty-nine thousandths of an acre (7.229) of land more or less.

JAO 19 JUL 14

11250 HSC

SUBJECT however, to the Northwesternmost half of the above mentioned right of way 16.5 feet wide.

ALSO the right to use in common with others, a right of way, 16.5 feet wide, the centerline being described as follows:

BEGINNING at the end of the South 52 degrees 32 minutes East 219.36 foot line of the above mentioned parcel and running thence, South 47 degrees 34 minutes West 29.05 feet, South 40 degrees 08 minutes West 337.02 feet, South 31 degrees 53 minutes 30 seconds West 189.12 feet and South 49 degrees 01 minute 30 seconds West 120.67 feet and to intersect the South 39 degrees East 37 3/4 perches line in the above Deed from Justamere Lodge, Inc. to C. David Rohde and wife at the end of 264.00 feet.

TOGETHER with a right of way 16 1/2 feet wide leading to the County Road which runs from Piney Grove to St. Johns Church and as recited in an agreement dated February 19, 1910 between Clara E. Walter et al. (See W.P.C. No. 359 folio 52 etc.)

BEING a part of the same land described in the above mentioned Deed from Justamere Lodge, Inc. to C. David Rohde and Olwen S. Rohde, his wife, dated June 9, 1965, recorded among the Land Records of Baltimore County in Liber R, R, G, No. 4499, folio 380 etc.

JUL 14-71	213134M	****73.75
JUL 14-71	213134DS	****24.75
JUL 14-71	213133DC	****37.50
JUL 14-71	213132DW	****11.50

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

To Have and To Hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Douglas R. Grice and Harriett J. Grice, his wife, as tenants by the entireties, their assigns, the survivor of them, his or her

heirs and assigns,

In fee simple.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property granted and that they will execute such further assurances of the same as may be requisite.

Witness the hands and seals of said grantors.

Test:

Edna L. McCart
Edna L. McCart

C. David Rohde [SEAL]
C. DAVID ROHDE

Olwen S. Rohde [SEAL]
OLWEN S. ROHDE

State of Maryland, County of Baltimore, to wit:
I HEREBY CERTIFY, That on this 8th day of July, 1971,
before me, the subscriber, a Notary Public of the State of Maryland, in and for Carroll County, personally appeared

C. David Rohde and Olwen S. Rohde, his wife
known to me (or satisfactorily proven) to be the person(s) whose name(s) appear subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained, and in my presence signed and sealed the same.

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

My Commission expires:

July 1, 1974

Rec'd for record JUL 14 1971 at 11:44 AM

Per Orville T. Gosnell, Clerk

Mail to Solomon Rogers

Receipt No. 81150

Edna L. McCart
Edna L. McCart



THIS DEED, Made this 3RD day of JULY, in the year one thousand nine hundred and sixty-eight, by and between C. DAVID ROHDE and OLWEN S. ROHDE, his wife, of Baltimore County, State of Maryland, parties of the first part; BANKERS TRUST COMPANY, a corporation of the State of New York, Trustee, party of the second part, and BALTIMORE GAS AND ELECTRIC COMPANY, a corporation of the State of Maryland, party of the third part.

WHEREAS, the said party of the third part, by its original indenture dated February 1, 1919, and recorded among the Mortgage Records of Baltimore County in Liber W.P.G. No. 555, folio 1, etc., and twenty-nine (29) indentures supplemental thereto, the last being dated August 1, 1967, and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 4791, folio 361, etc., conveyed to the said party of the second part, Trustee, for the uses and purposes therein set forth, all the property of the said Baltimore Gas and Electric Company then owned or thereafter to be acquired by it; and

WHEREAS, in order to vest the title to the property hereinafter described in the said party of the second part, as Trustee under said original indenture dated February 1, 1919, and indentures supplemental thereto, it is now proposed to grant and convey the property hereinafter described directly to the said party of the second part, as such Trustee, and to the said party of the third part, subject, in all respects, to the right, title and interest of the said party of the second part, as such Trustee.

NOW, THEREFORE, THIS DEED WITNESSETH: That in consideration of the premises and the sum of Five (\$5.00) Dollars, and other valuable considerations, this day paid, receipt whereof is hereby acknowledged, the said parties of the first part do hereby grant and convey unto the said Bankers Trust Company, Trustee under the aforesaid original indenture dated February 1, 1919, and indentures supplemental thereto, and its successors in said trust, for the uses and purposes and upon the trusts in said indentures set forth, and, subject to the interest and estate so vested in Bankers Trust Company, Trustee, unto the said Baltimore Gas and Electric Company, its successors and assigns, in fee simple, all the parcel of land situate in the Fourth Election District of Baltimore County, State of Maryland, and described as follows:



Parcel A, 150 feet wide

BEGINNING for the same at a point on the northwesternmost side of an existing electrical transmission line right-of-way, 150 feet wide, which by a deed dated December 15, 1930 and recorded among the Land Records of Baltimore County in Liber L.McL.M. No. 867, folio 404 was conveyed by Elizabeth J. Osborn, Widow to Susquehanna Transmission Company of Maryland; said point of beginning being in the fourth or North 33 3/4 degrees West 21 1/10 perches line of that parcel of land which by a deed dated June 9, 1965 and recorded as aforesaid in Liber R.R.G. No. 4469, folio 380 was conveyed by Justamere Lodge, Inc. to C. David Rohde and Olwen S. Rohde, his wife, thence running with and binding on a part of said line to the end thereof, thence running with and binding on a part of the fifth or South 68 1/4 degrees West 100 perches line of the said conveyance to the northwesternmost side of the parcel of land now being described, thence running for a line of division parallel to and 150 feet distant measured at right angles in a northwesterly direction from the northwesternmost side of the aforesaid electrical transmission line right-of-way 150 feet wide, South 34 degrees 18 minutes 00 seconds West 1250 feet more or less to intersect the second or North 58 degrees East 100 perches line of the above mentioned conveyance from Justamere Lodge, Inc. to Rohde, thence running and binding on a part of said line to intersect the northwesternmost side of said electrical transmission line right-of-way, thence running with and binding on said side of said right-of-way North 34 degrees 18 minutes 00 seconds East 965 feet more or less to the place of beginning.

Containing 4 acres of land, more or less.

Parcel B

BEGINNING for the same at a point on the southeasternmost side of an existing electrical transmission line right-of-way, 150 feet wide, which by a deed dated December 15, 1930 and recorded among the Land Records of Baltimore County in Liber L.McL.M. No. 867, folio 404 was conveyed by Elizabeth J. Osborn, Widow to Susquehanna Transmission Company of Maryland; said point of beginning being in the second or North 58 degrees East 100 perches line of that parcel of land which by a deed dated June 9, 1965 and recorded as aforesaid in Liber R.R.G. No. 4469, folio 380 was conveyed by Justamere Lodge, Inc. to C. David Rohde and Olwen S. Rohde, his wife, thence running with and binding on a part of said line to the end thereof, thence running with and binding on the third or North 62 3/4 degrees West 4 perches line of said conveyance to the end thereof, thence running with and binding on a part of the fourth or North 33 3/4 degrees West 21 1/10 perches line of said conveyance to intersect the southeasternmost side of the aforesaid electrical transmission line right-of-way 150 feet wide, thence running with and binding on said side of said right-of-way South 34 degrees 18 minutes 00 seconds West 507 feet more or less to the place of beginning.

Containing 1 acre of land, more or less.

The courses of the northwesternmost and southeasternmost sides of the above described parcels of land are referred to the aforementioned conveyance from Elizabeth J. Osborn, Widow to Susquehanna Transmission Company of Maryland.

Being parts of that parcel of land which by a deed dated June 9, 1965 and recorded among the Land Records of Baltimore County in Liber R.R.G. No. 4469, folio 380 was conveyed by Justamere Lodge, Inc. to C. David Rohde and Olwen S. Rohde, his wife.

The above described parcels of land are shown outlined in red on Plat No. 12505-B attached hereto and made a part hereof.

TOGETHER with the right to have access at all times, using existing roads as far as practicable, for the construction, operation and maintenance of towers, poles, structures, wires, cables, conduits, gas pipes or other facilities upon, over or under said parcels of land, and together with the right to trim or cut down and remove all trees on the land adjacent to said parcels of land which might at any time, in the sole judgment of the parties of the second and third parts, or either of them, their successors and assigns, or the successors and assigns of either of them, be liable to interfere with or fall on any of the facilities of the party of the third part, its successors or assigns.

RESERVING, however, unto the said parties of the first part, their heirs and assigns, the right to cross said parcels of land and extend roads and public utility facilities across said parcels of land anywhere except within Fifty (50) feet of any structure of the said party of the third part, and if such roads or facilities interfere with the use of said parcels of land by the said party of the third part, it will relocate them, and the right to farm and use the same in any other manner as long as such other use, in the sole judgment of the parties of the second and third parts, or either of them, their successors and assigns, or the successors and assigns of either of them, will not interfere with the construction, operation and maintenance of the party of the third part's existing or future facilities, but there shall not be erected any buildings or structures thereon by the parties of the first part; any crops which may be damaged on land adjacent to said parcels of land because of such construction, operation and maintenance shall be paid for at prevailing market prices by the party of the third part.

TOGETHER with any, all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or in anywise appertaining.

TO HAVE AND TO HOLD said parcels of land and premises above described, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining, unto and to the proper use and benefit of the said BANKERS TRUST COMPANY, Trustee under the aforesaid original indenture of February 1, 1919, and indentures supplemental thereto, and its successors in said trust, for the uses and purposes and upon the trusts in said indentures set forth, in fee simple.

TO HAVE AND TO HOLD said parcels of land and premises above described, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining, unto and to the proper

use and benefit of the said BALTIMORE GAS AND ELECTRIC COMPANY, its successors and assigns, subject to the interest and estate so vested in the Bankers Trust Company, Trustee, in fee simple.

AND the said parties of the first part hereby covenant that they will warrant specially the property hereby conveyed and that they will execute such further assurances of said land as may be requisite.

WITNESS the hands and seals of the within named parties of the first part.

WITNESS:

J. Lloyd Wilkins
AS To BETH

C. David Rohde (SEAL)
G. David Rohde

Olwen S. Rohde (SEAL)
Olwen S. Rohde

STATE OF MARYLAND, CITY OF BALTIMORE, TO WIT:

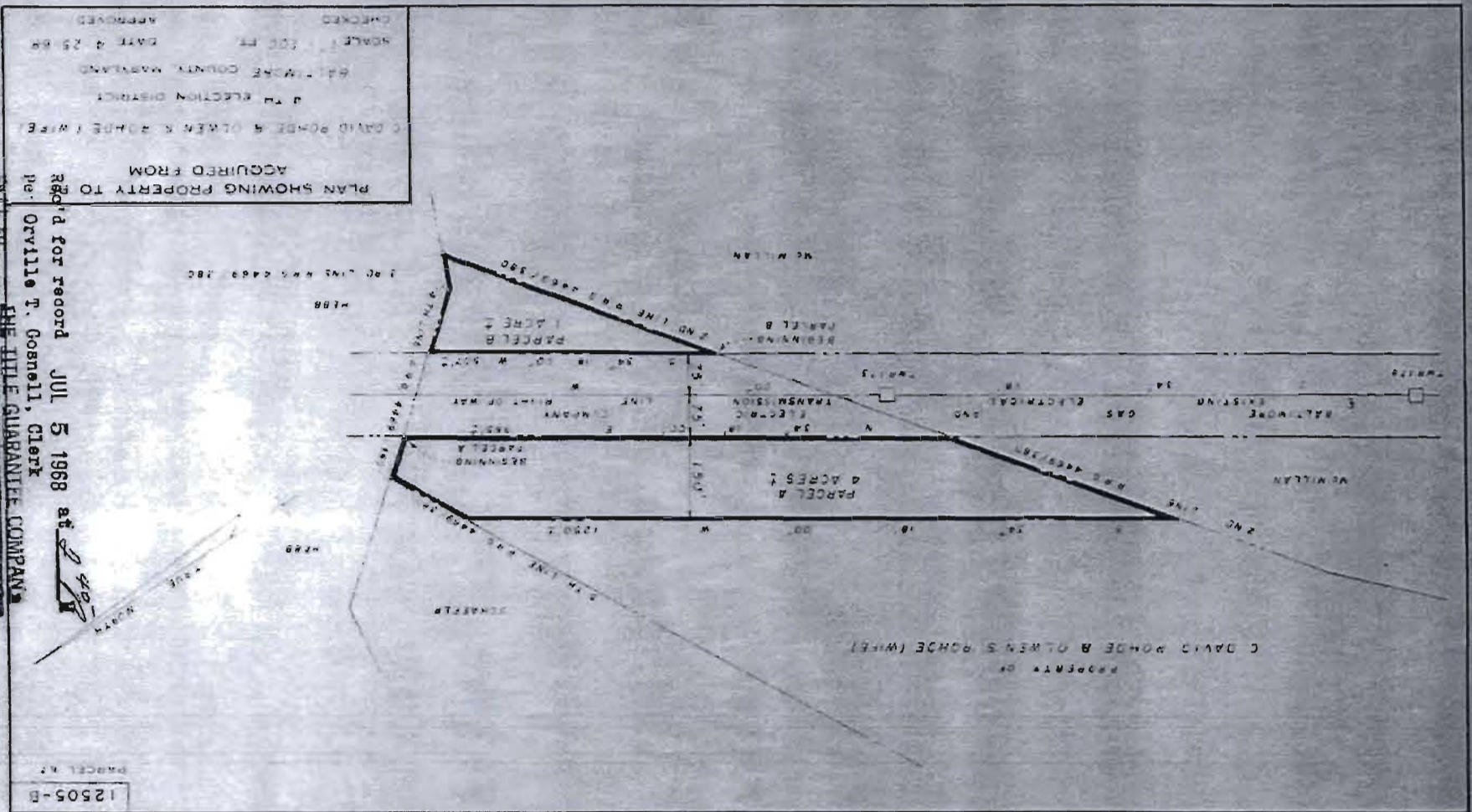
I HEREBY CERTIFY that on this 3RD day of July, 1963, before me, a Notary Public of said State, personally appeared C. DAVID ROHDE and OLWEN S. ROHDE, his wife, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument, who signed the same in my presence and acknowledged that they executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.



J. Lloyd Wilkins
Notary Public
My commission expires: June 30, 1969

LIBER 4 896 PAS 62



Receipt No. 197243 16 2000

the future as he was at the time of the hearing on the merits. That may well be so, and if a drop in his income is not self-manipulated, it may be the basis for a modification of support. The evidence proffered in the motion for a new trial, however, was available at the time of the hearing on the exceptions. Mr. Rock made no offer of added testimony at the hearing on the exceptions. Under these circumstances, the court was not required to grant a new trial or alter or amend the judgment. Any error was not that of the court.

JUDGMENT AFFIRMED IN PART AND REVERSED IN PART. CASE REMANDED FOR FURTHER PROCEEDINGS IN ACCORDANCE WITH THIS OPINION. COSTS TO BE PAID BY APPELLANT.⁵

587 A.2d 1146

George P. MAHONEY, Jr., et ux.

v.

DEVONSHIRE, INC., et al.

No. 816, Sept. Term, 1990.

Court of Special Appeals of Maryland.

April 2, 1991.

Appeal was taken from judgment of the Circuit Court, Baltimore County, Alfred L. Brennan, Sr., J., finding that prescriptive easement existed. The Court of Special Appeals, Davis, J., held that: (1) evidence was sufficient to support finding that prescriptive easement existed over subject property; (2) trial court could expand scope of

5. Although Mr. Rock was successful in one issue, it was not of his doing; hence, we exercise our discretion and make no division of the costs.

easement by permitting increased use; and (3) question of easement's scope was for court, rather than jury.

Affirmed.

1. Easements ⇨5

In Maryland, to establish easement by prescription, it is necessary to prove adverse, exclusive and uninterrupted use of way for 20 years.

2. Easements ⇨36(3)

Evidence that original grantor of property believed that he retained right to continue use of road over property for access to another road, that subsequent owners of property believed that they also had right to use road, that right of use was exclusive and that road was used continuously was sufficient to support finding that prescriptive easement existed.

3. Easements ⇨41

After it was determined that a prescriptive easement existed over subject property, trial court could expand easement by permitting increased burden of use based on evidence of past use.

4. Easements ⇨61(9½)

After jury found that prescriptive easement existed, scope of easement was question for court, rather than jury.

5. Trial ⇨350.3(4)

Landowners' tort claims for injurious falsehood and civil conspiracy did not require question concerning scope of easement to be submitted to jury, where tort claims were based on existence of easement, rather than its scope.

Francis B. Burch, Jr. (C. Lamar Garren, Anthony L. Meagher and Piper & Marbury, on the brief), Baltimore, for appellants.

Thomas J. Gisriel (Michael Gisriel and Gisriel & Gisriel, on the brief), Baltimore, for appellees.

6/10/09 -08-425-SPHA Pet Exh. 8

Argued before ALPERT, CATHELL and DAVIS, JJ.

DAVIS, Judge.

Six corporations—Country Ridge Inc., Coventryshire, Inc., Crossfox, Inc., Devonshire, Inc., Dover Foxcroft, Inc., and Dublin Field, Inc.—sued George P. Mahoney, Jr. and his wife, Amanda S. Mahoney, for a declaration of their right to use a right-of-way, an injunction barring the Mahoneys from interfering with their use of the right-of-way, and a declaration of their rights to repair and pave the right-of-way, as well as for tort damages. The Mahoneys filed a counter-claim seeking a declaration of the parties' rights regarding the right-of-way and an injunction against the use of the right-of-way inconsistent with the rights as determined by the court. From a decision of the judge that an easement of record existed and a determination by the judge of the scope of a prescriptive easement found by the jury, Mahoney and his wife appeal.

FACTS

This appeal concerns the use of a roadway running over and through various properties located in Baltimore County, near Reisterstown, Maryland. The roadway, which essentially runs in an east to west direction, connects two roads located in the County, Longnecker Road and Hanover Pike. Longnecker Road and Hanover Pike both run, for our purposes, in a north to south direction. The properties concerned in this litigation lie between but do not reach either Longnecker Road or Hanover Pike.

George and Amanda Mahoney (the Mahoneys), appellants, own property which is situated between Longnecker Road and Hanover Pike. In particular, this property is located east of and adjacent to property owned by six corporations doing business as the Security Development Company (the corporations), appellees. The appellees, in an effort to develop and market six parcels of land located to the northwest of the Mahoney property, used the roadway running over appellants' property as ingress and egress to and from Longnecker Road.

Believing that appellees had no right to use the roadway traversing their property, appellants erected gates to foreclose access to appellees' property. Appellants also allegedly communicated with prospective purchasers of appellees' property to discourage its sale, and otherwise acted to prevent the development and sale of the property.

As a result of this activity, appellees filed suit in the Circuit Court for Baltimore County. Appellees sought a declaratory judgment establishing their right by way of easement to use the roadway and an injunction barring appellants from interfering with use of the roadway. Appellees also alleged damages for injurious falsehood and civil conspiracy.

At trial and by agreement of the parties that the existence of an easement of record was a question of law for the court, the circuit court (Brennan, J.) found that a record easement existed over appellants' property. The question of the existence of a prescriptive easement was submitted to the jury. The jury found that an easement by prescription was established over appellants' property.

After argument at trial by appellants that the scope of the prescriptive easement should have been defined by the jury which found the existence of the easement, the judge, in a final judgment and order dated March 1, 1990, found that appellees had the right to maintain and repair a right-of-way sixteen feet wide, including the right to pave the roadway. The judge also enjoined appellants from erecting gates on the road and from otherwise interfering with appellees' use of the roadway.

On appeal, appellants raise four issues:¹

1. Whether, in the absence of any deed or other conveying document in evidence, the trial court can properly find the existence of an easement of record;

1. Issues one and two involve evidentiary rulings excluding the pertinent land records establishing a chain of title in support of a finding of a record easement and admitting the testimony of John Dowling, a title attorney, produced to relate the contents of excluded conveyanc-

2. Whether expert testimony concerning the contents of deeds and conveyancing documents, and legal conclusions about the effect of those contents, is inadmissible;

3. Whether the trial court's definition of the prescriptive easement is contrary to the weight of the evidence and;

4. Whether the trial court erred in failing to submit factual issues about the scope of the prescriptive easement to the jury.

Because we hold, addressing the third and fourth issues, that the lower court did not err in defining the scope of the prescriptive easement and in not submitting factual issues to the jury regarding this scope, we need not address the other issues raised by appellant.

I.

SCOPE OF THE PRESCRIPTIVE EASEMENT

Appellants aver that the trial court's determination of the scope of the prescriptive easement found by the jury was unsupported by the evidence. We cannot agree.

[1] In Maryland, to establish an easement by prescription, it is necessary to prove an adverse, exclusive and uninterrupted use of a way for 20 years. *Kiler v. Beam*, 74 Md.App. 636, 639, 539 A.2d 1138 (1988) citing *Furman E. Hendrix, Inc. v. Hanna*, 250 Md. 443, 445, 243 A.2d 600 (1968); *Shuggars v. Brake*, 248 Md. 38, 234 A.2d 752 (1967). It has been established that "[w]hen an easement has been acquired by prescription, the character and extent of the use permissible are commensurate with and determined by the character and extent of the use during the prescriptive period." *Bishields v. Campbell*, 200 Md. 622, 625, 91 A.2d 922 (1952); *Barry v. Edlavitch*, 84 Md. 95, 112, 35 A. 170 (1896); *Kiler, supra*, 74 Md.App. at 640, 539 A.2d 1138; *L.*

ing documents. These documents were excluded by the trial judge as a sanction for failure to comply with pretrial discovery.

Jones Easements § 415; 5 *Restatement, Property*, §§ 477, 478.

In *Tong v. Feldman*, 152 Md. 398, 403, 136 A. 822 (1927), the Court of Appeals observed that:

There have been many decisions upon changes made or attempted by owners of easements in the enjoyment of them, and as with discussions on other questions in the law of easements, the theories and principles stated have not been uniform. Of course, a restriction in a grant or an express reservation must be given effect to its full extent, properly construed. *But there is nothing in the nature of a right reserved or an easement, apart from an express prohibition, which prevents all change during the course of its enjoyment.* (Emphasis added).

Although Maryland courts have had occasion to decide issues of the enlarged or expanded permissive uses of easements, no case has directly addressed this issue where an easement created by prescription is concerned. This case presents such an opportunity. In the case before us, we are called upon to determine whether the trial court clearly erred in expanding the scope of a prescriptive easement. Md.Rule 8-131(c). In our discussion, we shall be guided by other jurisdictions which have addressed this issue.

In *Kuras v. Kope*, 205 Conn. 332, 533 A.2d 1202 (1987), the Supreme Court of Connecticut had occasion to decide whether the lower court erred in permitting easement owners to broaden the scope of a prescriptive easement. In *Kuras*, the Kopes obtained by prescription a right-of-way in the form of a dirt road approximately 1900 feet long. The Kuras family brought an action against the Kopes in which they sought, *inter alia*, a declaratory judgment defining the width, scope and nature of improvements which could be made to the dirt road. They also sought injunctive relief restraining the expansion, improvement or broadening of the easement.

After conducting the trial and viewing the *locus in quo*, the trial court determined that the right of the Kopes to use the dirt road was established by prescription; that the use

was limited to the use that established it; that the right-of-way was only about ten feet wide, and that although the Kopes had a right to maintain the right-of-way as a dirt road, they could not add stone, gravel or sand to it. Nor could they grade the dirt or build "slopes" on the area along the right of way.

On appeal, the Kopes averred that the decision of the trial court "has taken away all rights incident and necessary to its [the easement's] enjoyment and has taken away its practical usefulness." *Id.* 533 A.2d at 1206. Further, the Kopes urged that the improvements were in keeping with the nature and use of the prescriptive right-of-way and were permissible so long as the improvements were made for purposes related only to ingress and egress to and from their residence. *Id.* Finally, the Kopes argued under 5 Restatement, Property, §§ 478-79 that new needs, as evidenced by the improvements they proposed, "must have been satisfied if the prescriptive easement is to be effective." *Id.*

Agreeing with the Kopes that the trial court erred in restricting the scope of the easement, the Supreme Court observed:

Even though the common and ordinary use which establishes the prescriptive right also limits and qualifies it, as one court aptly observed, "the use made during the prescriptive period does not fix the scope of the easement eternally." One commentator in this field states that "if the above announced rule were applied with absolute strictness, the right acquired would frequently be of no utility whatsoever. A right-of-way, for instance, would, as has been judicially remarked . . . be available for use only by the people and the vehicles which have passed during the prescriptive period." But the rule is not applied with absolute strictness.

Id. at 1207. (Citations omitted, emphasis in original).

After further discussion of the law regarding the increased permissible use of prescriptive easements, the Court said:

The desire and need for improvements in such a prescriptive easement for ingress and egress emerges from the evolution of the dominant parcel. The nature and scope of such improvements, however, cannot be fully foretold. Acknowledging that the interests and rights of both the dominant and servient tenements often conflict, the problem arises of how present needs may be justified under a prescriptive right that apparently met the needs of another day. This brings into focus the proposition that the use and improvement of this prescriptive easement must not unreasonably burden the servient tenement that is already burdened with the easement. *Id.* (Emphasis added). See 5 Restatement, Property § 480.

Bottomed on this enlightened approach, the Court found that the trial court erred in restricting use of and improvement to the right-of-way, and that, subject to further fact finding, the road could be graded and asphalt or gravel laid. The Court stated that: "It appears that one who has a prescriptive easement has the privilege to do such acts as are reasonably necessary to make effective enjoyment of the easement unless the burden on the servient tenement is thereby increased." *Id.* at 1208. (Citations omitted). See also *Big Cottonwood Tanner Ditch Co. v. Moyle*, 109 Utah 213, 174 P.2d 148 (1946); *Olcott v. Thompson*, 47 AR 184 (1927). Clearly, the court in *Kuras* did not believe that the proposed improvements would necessarily and impermissibly burden the servient estate.

A similar result was reached in *Jordan v. Worthen*, 68 Cal.App.3d 310, 137 Cal.Rptr. 282 (1977). In *Jordan*, the owners of eight parcels of land created by a subdivision of a 320 acre ranch sued the owners of two of several parcels subject to a prescriptive easement in a private road leading to the ranch. In the suit, plaintiff owners sought, *inter alia*, an injunction against an obstruction (a locked chain) placed across the road. The trial court held that it was reasonably foreseeable that the ranch property would be subdivided and that the burden wrought on the owners of the servient estate by the increased use of the road was not

unreasonable. From a judgment for plaintiffs, the owners of the servient estate appealed.

The trial court in *Jordan* had made detailed findings regarding the road in question. The court found that from the early 1900's, the properties served by the road were large family farming units. The farmers were involved in the production of wood forest products, together with the growing of fruit trees, family gardens and the raising of sheep and cattle. The road was used in connection with these activities as ingress and egress to and from the ranch. The road was also used for access to one or more ranches beyond the subject ranch for the transport of considerable amounts of wood forest products.

Beginning in the 1940's, the area including the ranch followed a pattern of subdivision into smaller parcels and a change from the original family farms to use as second or retirement homes. This resulted in increased population and vehicular use of available roads, including the roadway at issue in the case. At the time of trial, the roads were used only for access to and from the properties owned as second or retirement homes.

In addition to finding that the evidence showed that the appellants knew of the changing nature in the use of the properties supported by the road, the California Supreme Court found that appellees' use of the private road for residential traffic was not unreasonable. The court said:

Finally, we note that Civil Code Section 807 provides: "In case of partition of the dominant tenement the burden must be apportioned according to the division of the dominant tenement, but not in such a way as to increase the burden upon the servient tenement." Strict application of this rule would limit the right to use the private road to one family, presumably the plaintiffs *Jordan*, who have acquired the old ranch house. The law, however, is not so unmalleable. The Restatement of Property indicates, "Except as limited by the terms of its transfer, or by the manner or terms of the creation of the easement appurtenant, those who succeed to the possession of each

of the parts into which a dominant tenement may be subdivided thereby succeed to the privileges of use of the servient tenement authorized by the easement.

Jordan, 137 Cal.Rptr. at 292-93. Like the court in *Kuras*, the *Jordan* court found that the change in nature and scope of the use of the easement was permissible and did not unreasonably burden the servient estate.

Another case, *Hill v. Allan*, 259 Cal.App.2d 470, 66 Cal.Rptr. 676 (1968), is instructive. In *Hill*, "[t]he crux of the dispute was whether the use of the easement by 24 additional residences exceeds the general outline of the prescriptive right acquired by the adverse user over the years or whether it is merely a change in degree of established use." *Hill*, 66 Cal.Rptr. at 686-687. The Court was considering the question in the context of a change in the character of the use of the dominant tenement from a primarily agricultural to residential use. The easement in controversy was an irregularly curving road which had served the dominant tenement for approximately 70 years.

In finding that there was no substantial increase in the burdening of the servient estate or interference with the existing agricultural uses of that estate, the Court said:

In view of the evolution of the dominant and servient tenements here from a primarily agricultural one in 1912 to a primarily residential one by 1958, we must apply the test of reasonable foreseeability. . . . As indicated by the Restatement [of Property § 478-79], no use can be exactly duplicated. *The inevitability of change dictated by natural forces and human activities requires that subsequent users under prescriptive easements must vary in some degree from the users by which the easements were created.* The real question is whether the Nielsons' present and contemplated use of the easement as an access road for 24 additional homes on their 120-acre parcel was a reasonable foreseeable development of the dominant tenement as it evolved during the various prescriptive periods and whether a substantial increase in the servient tenement would result.

Id. at 687. (Emphasis added). The Court decided that the development was foreseeable and that the increased use of the easement was not unreasonable as to the servient tenement.

In *Bodman v. Bodman*, 456 Pa. 412, 321 A.2d 910 (1974), appellees brought an action in equity to compel appellant to remove a chain barricade from a lane which crossed his property and provided access to appellees' land. In enjoining appellant from interfering with appellees' future reasonable use of the land, the Supreme Court of Pennsylvania stated:

Because it is created by adverse use, an easement by prescription is limited by the use made during the prescriptive period. This limitation is not, however, absolute. Easements by prescription may be apportioned when the dominant tenement is subdivided. Restatement of Property § 488 (1944). *Furthermore, "normal evolution in the use of the dominant tenement" will permit reasonable increases in the burden imposed on the servient tenement.* Here, the use during the prescriptive period was for entry and exit by various motor vehicles. Since a portion of the dominant tenement was sold the use has continued to be for access by motor vehicles. Although the number of vehicles using the lane may have increased, we conclude that the chancellor correctly found that the increase is not unreasonable. Only four cabins have been built. Testimony indicates that these cabins are to be sold to private parties who will use them for recreational purposes. On this record we cannot say that it was error for the chancellor to find that the burden imposed on the easement is unreasonable.

Id. 321 A.2d at 912. (Citations omitted, emphasis added).

Where property owners had been enjoined from limiting the width of the right-of-way across their land, the Superior Court of Pennsylvania, in reversing the decision of the lower court, observed

that normal evolution of the dominant tenement permits reasonable increases in the burden imposed upon the

servient tenement. The easement originally was used for entry and exit of motor vehicles so that an increase in the number of vehicles using the lane was not unreasonable. The *width* of the easement did not increase, however, as the location and dimensions of the easement remained the same. Only the *degree* of its use expanded, but such expansion was not an unreasonable burden. A reasonable increase in degree of use is thus permissible whereas an expansion of the original easement is not.

Hash v. Sofinowski, 337 Pa.Super. 451, 487 A.2d 32, 35-36 (1985). (Citations omitted emphasis in original).

In the case *sub judice*, we believe the principles of *Kuras, Jordan, Hill, Bodman* and *Hash* apply. Based on the evidence adduced at trial, the jury found that a prescriptive easement had been established over appellants' property for the benefit of the appellees.

[2] At trial, the jury was instructed that in order to find a prescriptive easement, the corporations must have shown that they or their predecessors in interest must have used the right-of-way over the Mahoney's property in an adverse, exclusive and continuous or uninterrupted manner for 20 years. As to adverse use:

By *adverse* is meant a *user*, without license or permission, for an adverse right of an easement cannot grow out of a mere permissive enjoyment, the real point of distinction being between a permissive or tolerated user, and one which is claimed as a matter of right. Where one, however, has used a right of way for twenty years unexplained, it is but fair to presume the user is under a claim of right, unless it appears to have been by permission. . . .

Kiler, supra, 74 Md.App. at 639, 539 A.2d 1138 quoting *Zimmerman v. Summers*, 24 Md.App. 100, 106, 330 A.2d 722 (1975) (emphasis in original); *Cox v. Forrest*, 60 Md. 74, 78-80 (1883). There was evidence in the record, and before the jury, that the properties now owned by appellants and appellees were in common ownership in 1846. At some

point in 1846, the property now owned by appellants was conveyed and otherwise severed from the property of appellees at issue in this case. From the conveyance, it is apparent that the grantor of appellees' property, Jeremiah Ducker, believed that in conveying the property he retained the right to continue to use the road over appellants' property for access to Longnecker Road.

Additional evidence showed that a subsequent owner of appellees' property believed that she, too, had the right to use the road over appellants' property to get out to Longnecker Road. In 1889, Vilmina Weller conveyed by deed pertinent portions of appellees' property. The "Weller Deed" was introduced into evidence at trial. It is apparent from the language of the deed that Vilmina Weller believed she had rights in the road running from her property through appellants' property, and out to Longnecker Road.² Additionally, there was testimony that the corporations' immediate predecessor-in-title, Herbert W. Wirts, believed he and his family and their tenants, from 1929 to 1987, had a right to use the right-of-way. Wirts testified that he believed the Wirts family had an "undisputed right to use the road."

As to the other elements required to establish an easement by prescription, we reiterated in *Kiler, supra*, that:

By *exclusive*, the law does not mean that the right of way must be used by one person only, because two or more persons may be entitled to the use of the same way, but simply that the right should not depend for its enjoyment upon a similar right in others, and that the party claiming it exercises it under some claim existing in his favor, independent of all others....

2. The deed conveyed Weller's property "together with the buildings and improvements thereupon erected, made or being, and all and every other road ... and especially the right to the use of two roads, each to be of the width of 16 feet ... [including] the road running through the Baer property to the country road ..." The Baers are predecessors in title to the Mahoneys. All indications are that the "country road" referred to is Longnecker Road.

Nor does the law mean by "an uninterrupted and continuous enjoyment," that a person shall use the way every day for twenty years, but simply that he exercises the right more or less frequently, according to the nature of the use to which its enjoyment may be applied, and without objection on the part of the owner of the land, and under such circumstances as excludes the presumption of a voluntary abandonment on the part of the person claiming it.

Id. 74 Md.App. at 639-40, 539 A.2d 1138, citing *Zimmerman, supra* 24 Md.App. at 106, 330 A.2d 722. (Emphasis in original).

With regard to exclusive use, there is no evidence in the record as to the particular use of the property made by Jeremiah Ducker or Vilmina Weller. It seems safe to assume, however, that their respective rights to use the road did not in any perceivable way depend upon a similar right in others. From the language of their respective conveyances, it is apparent that the exercise of the right of use was under a claim independent of the right of others, and, therefore, exclusive. As to the Wirts family, Herbert Wirts testified that the right of his family to use the roadway emanated from a "deed that my father treasured." Wirts was referring to the Weller deed. Certainly, the Wirts family had what they believed was a unique claim to use the right-of-way. There is no indication that this right was at all dependent on a similar right existing in others.

As for the requirement of uninterrupted and continuous enjoyment, Wirts testified that from 1928 to 1987 the right-of-way was consistently used by his family and their tenants. After Herbert Wirts left the property in 1955, he continued to use the roadway to visit his father and sisters who did not leave until 1964. From 1929 to 1964, the Wirts family maintained a mailbox on Longnecker Road which they accessed regularly by travelling the roadway by car. Guests of the Wirts family arrived and departed by use of the roadway. After 1964, when none of the Wirts family regularly resided on the property, their tenants continued to

use the roadway in the same manner as did the Wirts family. In addition, after 1964, Herbert Wirts used the roadway to visit the farm "half-a-dozen times a year or more." Periodically, his sisters used the road to visit the farm to pick blackberries and "walk the farm." Moreover, workmen and farm laborers required by the tenants who worked the farm also used the roadway.

From this evidence, the jury could reasonably have found that a prescriptive easement existed over appellants' property. From this same evidence we conclude that, considering the principles enunciated in *Kuras, Jordan, Hill, Bodman* and *Hash*, the trial court did not err in defining the scope of the prescriptive easement.

[3] The court found the right-of-way to be 16 feet wide and that appellees could repair and maintain the roadway. This finding was supported by evidence in the Weller deed that the roadway was 16 feet wide. It was also supported by testimony by one of the Wirts family tenants that fences were erected along the roadway at a width of from 18 to 20 feet in order to accommodate farm equipment which regularly travelled the roadway. Further, it was not erroneous to permit the increased use of the roadway. It was foreseeable that the property of appellees would be subdivided and the right-of-way required to bear an increased burden of use. The use permitted by the trial court was not unreasonable based on evidence of past use. The burden on the servient estate is appropriate. We perceive no error in the trial court's decision.

II.

SUBMISSION OF ISSUES TO JURY

At trial, the court submitted to the jury the question of whether a prescriptive easement existed over appellants' property for the benefit of appellees. Also submitted to the jury were the tort claims of appellees for injurious falsehood and civil conspiracy. The trial court refused, however, to submit to the jury separate questions as to the prescrip-

tive rights of the individual corporations; questions as to the appropriate width of the easement; the right of appellees to use the easement to access six residences; the right to pave the easement; and the right of appellants to maintain gates on their property to limit use of the roadway. Arguing that these matters were questions for the jury, appellants claim error. We do not agree.

[4] Appellants first argue that the jury should have decided the scope of the easement because in finding that the prescriptive easement existed, they "necessarily" decided the scope of the right-of-way. Appellants cite *Bishields, supra*, for this proposition. We do not agree that *Bishields* supports appellants' contention. In that case, all that was said by the Court of Appeals was that "[t]he law is also clear that when an easement has been acquired by prescription, the character and extent of the permissible use are commensurate with and determined by the character and extent of the use during the prescriptive period." *Id.* 200 Md. at 625, 91 A.2d 922. The Court did not address the question of whether the trial judge or jury should make the ultimate determination. In passing, we note that a jury in making a determination that a way has been used in an adverse, exclusive and continuous and uninterrupted manner for 20 years, does not by necessity determine precise questions as to the past and future permissible scope of the easement.

Appellants cite *Susquehanna Transmission Co. of Maryland v. Murphy*, 131 Md. 340, 101 A. 791 (1917), for the proposition that the lower court should not have "substituted its own decision on factual issues for that of the jury." *Murphy* is inapposite. In *Murphy*, questions of fact were involved which the trial court indicated were properly within the province of the jury. These questions, surrounding plaintiff's alleged negligence, and not questions sounding in equity, involved the character, value and extent of injury to timber on property that had been burned, the value of the timber before and after the fire, the extent of the fire, and the direction and velocity of the wind at the time plaintiff's

property caught fire. *Id.* at 343, 101 A. 791. Clearly, the disputed questions of fact did not involve matters regarding the scope of the right to exercise an established property right. Rather, the questions in *Murphy* went to damages and breach of the standard of care owed by the defendant to the plaintiff.

Appellants argue further that this case presents an action "at law" and that all the claims are legal in nature. Appellants also contend under *Glorius v. Watkins*, 203 Md. 546, 548, 102 A.2d 274 (1953), that a declaratory judgment action does not necessarily make a cause of action equitable in nature. Alternatively, appellants urge that, even if the questions as to the scope of the easement were equitable in nature, all issues of fact common to legal and equitable claims must be submitted to the jury. Appellants cite *Higgins v. Barnes*, 310 Md. 532, 530 A.2d 724 (1987) for the latter proposition.

We are able to determine appellants' first proposition based on *Higgins*. We believe, however, that appellants' reliance on *Higgins* is misplaced.³ In *Higgins*, and the cases cited therein, the issue was whether a defendant, in a suit seeking equitable relief, was entitled to a jury trial because his counterclaims raised issues traditionally subject to resolution by a jury. The Court of Appeals, in its ultimate reliance upon and analysis of federal law, observed:

In the federal courts, then, the entitlement to jury trial is not determined simply by the characterization of the action as a whole as legal or equitable. If an asserted counterclaim presents a legal claim historically accorded the right to jury trial and raises factual issues in common with the plaintiff's equitable claim, the defendant is ordi-

3. *Higgins* concerned the impact of Rule 2-301, which eliminated the distinction between law and equity "for purposes of pleadings, parties, court sittings and dockets," on the right to a jury trial when legal and equitable claims were involved.

narily entitled to a jury determination of those factual legal issues.

Id. at 547, 530 A.2d 724. See *Beacon Theatres v. Westover*, 359 U.S. 500, 79 S.Ct. 948, 3 L.Ed.2d 988 (1959); *Myers v. United States Dist. Court, Etc.*, 620 F.2d 741 (9th Cir.1980); *Eldredge v. Gourley*, 505 F.2d 769 (3rd Cir.1974). In *Hashem v. Taheri*, 82 Md.App. 269, 272-73, 571 A.2d 837 (1990), a case involving the issues raised in *Higgins*, we cited P. Niemeyer and L. Richards, Maryland Rules Commentary at 125 (1984) for the proposition that, under *Higgins* "[i]f a claim is brought that historically would have been filed on the law side of the court and a jury trial is properly demanded, a jury will hear the case. Equitable claims will be decided by the court without a jury."

In the case before us, the counterclaims raised by appellants in their Complaint are not claims historically accorded the right to a jury trial. They sought a declaratory judgment as to the rights regarding the roadway and an injunction against appellees to use the road inconsistent with these rights. In *Leekley v. Dewing*, 217 Md. 54, 57-58, 141 A.2d 696 (1957), the Court of Appeals held that:

There was no error in the granting of the temporary injunction. The quondam rule that law must decide questions of title to land is far from inflexible, as the later cases make plain. *Where there is no reasonable doubt as to the title or the propriety of equitable action is evident, an equity court may act in cases involving title and enjoin continuing trespasses or declare rights as to ways.* *Southern Maryland Agr. Ass'n v. Meyer*, 196 Md. 31, 34 [75 A.2d 89]; *Potomac Edison Co. v. Routzahn*, 192 Md. 449, 456-58 [65 A.2d 580]; *Dalton v. Real Estate & Improvement Co.*, 201 Md. 34 [92 A.2d 585]; *Campbell v. Bishields*, 197 Md. 572 [80 A.2d 262]; *Moore v. McAllister*, 216 Md. 497 [141 A.2d 176]; *Lichtenberg v. Sachs*, 200 Md. 145 [88 A.2d 450]. (Emphasis added).

Since there was a reasonable doubt as to appellees' right to use the roadway, the matter was properly submitted to

the jury. The jury found that appellees had a prescriptive easement over appellants' property. Once the jury found the existence of the easement, we believe any doubt as to title was sufficiently cleared up so as to permit the presiding judge to "declare the rights" of appellees to use and improve the roadway.

[5] Appellants' final contention is that the trial court should have submitted the issues surrounding the scope of the easement to the jury because the issues were common to appellants' tort claims for injurious falsehood and civil conspiracy. In their brief, appellants concede that the question in common between the declaratory judgment and damage claims was the existence of the easement. As the record indicates, the jury did, in fact, decide the legal issue of whether the easement existed. As a result, appellants cannot now claim that "for the jury to properly determine whether the Mahoneys were guilty of injurious falsehood and civil conspiracy, it was necessary for the court to submit questions on the extent of the easement" to the jury.

JUDGMENT AFFIRMED.

COSTS TO BE PAID BY APPELLANTS.

587 A.2d 1155

Randy L. HILL

v.

BALTIMORE COUNTY, MARYLAND.

No. 822, Sept. Term, 1990.

Court of Special Appeals of Maryland.

April 2, 1991.

County employee appealed from order of the Circuit Court, Baltimore County, Dana M. Levitz, J., affirming

administrative denial of disability retirement benefits. The Court of Special Appeals, Rosalyn B. Bell, J., held that: (1) employee was not denied due process; (2) county's procedure for evaluating disability retirement applications did not violate equal protection; and (3) substantial evidence supported denial of benefits.

Affirmed.

1. Counties ⇨69(3)

On an administrative appeal from decisions of county medical board and county board of trustees that county employee was not totally disabled and was not entitled to disability retirement benefits, county board of appeals could decide issue of disability, and was not limited to determining whether employee's disability was ordinary or accidental, where county charter provided for de novo hearing and ability to decide all issues before board of appeals, and did not limit how board could decide issues. Const. Art. 11-A, § 2; Code 1957, Art. 25A, § 5.

2. Administrative Law and Procedure ⇨453, 470

Constitutional Law ⇨278.4(5)

Counties ⇨69(3)

County employee who had no notice or hearing before medical board or board of trustees in disability retirement case was not denied due process, where final administrative determination was made at de novo hearing before county board of appeals, and employee received notice of that hearing. U.S.C.A. Const.Amend. 14; Const. Art. 11-A, § 2; Code 1957, Art. 25A, § 5.

3. Administrative Law and Procedure ⇨453, 470

Constitutional Law ⇨318(1)

Individual is provided due process of law even if he or she is not given notice of or hearing at initial administrative levels, when he or she is afforded de novo hearing at county board of appeals. U.S.C.A. Const.Amend. 14; Const. Art. 11-A, § 2; Code 1957, Art. 25A, § 5.



MITCHELL J. KELLMAN
DIRECTOR OF ZONING SERVICES

Education

Towson University, BA, Geography and Environmental Planning, Urban Planning
Towson University, Masters, Geography and Environmental Planning, Urban Planning

Professional Summary

Mr. Kellman has over 11 years of experience working in zoning administration and subdivision regulation for the public sector; 9 of those years were with the Baltimore County Office of Planning and Zoning. His responsibilities included review, approval and signatory powers on behalf of the Director of Final Development Plans and Record Plats. He represented the Zoning Office on the County Development Review Committee, a body reviewing the procedural compliance of all development submissions. Review of petitions and site plans filed for zoning hearing approvals were within his authority. Additionally, he supervised county review staff, met with professionals and public on development project matters, and made determinations regarding developments and their compliance with county regulations. In working for DMW, he has extensive experience in testifying before the Baltimore County Zoning Commissioner, Hearing Officer, and Board of Appeals. He also regularly represents the company at the Baltimore County Development Review Committee meetings.

Partial List of Projects

Charlestown Retirement Community, Baltimore County, MD
GBMC, Baltimore County, MD
Goucher College, Baltimore County, MD
Hopewell Point, Baltimore County, MD
Notre Dame Preparatory School, Baltimore County, MD
Oakcrest Village Retirement Community, Baltimore County, MD
Sheppard and Enoch Pratt Hospital, Baltimore County, MD
Waterview, Baltimore County, MD

Professional Experience

Daft-McCune-Walker, Inc., Towson, MD: 2000-Present
Baltimore County Office of Permits and Development Management - Development Control,
1988-2000

to be grouped and to be of a "break-away" design.

(2) The county shall require street lighting to be of a type and size that is adequate for safety and appropriate to the vicinity.

(d) *Transit facilities.* The county may require transit facilities, such as bus turnouts, for sites to be served by public transit.

(1988 Code, § 26-264) (Bill No. 79-01, § 2, 7-1-2004)

§ 32-4-409. PANHANDLE DRIVEWAYS.

(a) *In general.*

(1) The county may only allow a panhandle lot:

- (i) To achieve better use of irregularly shaped parcels;
- (ii) To avoid development in environmentally sensitive areas;
- (iii) Where the lot will not be detrimental to adjacent properties; and
- (iv) Where the lot will not conflict with efforts to provide for public safety and general welfare.

(2) The county may only allow a panhandle driveway where necessary to provide access to interior lots where a public road is neither feasible nor desirable.

(b) *In-fee strip; required.*

(1) Except as provided in subsection (c) of this section, the county may permit a panhandle lot if the lot includes an in-fee strip of land for access to the local street.

(2) Panhandle fee strips shall be a minimum of:

- (i) 20 feet in width to serve one lot;
- (ii) 12 feet in width per lot where two lots are involved;
- (iii) 10 feet in width per lot where three or more lots are involved; or
- (iv) 12 feet in width per lot where there are two or more lots in a development that is within the metropolitan area where public water and sewer services are available, planned, or considered.

(c) *Same; exception.* In cases where a right-of-way has been

established before the submission of the Development Plan, the Hearing Officer may approve access to the local street or collector street through the existing right-of-way instead of an in-fee strip.

(d) *Panhandle driveways.*

(1) A single panhandle driveway may serve up to five dwellings, three of which may be on internal lots not adjacent to the local street or collector street.

(2) Panhandle driveways serving lots greater than 20,000 square feet may serve five internal lots plus two dwellings on the front lots adjacent to the panhandle driveway and the local street or collector street.

(3) Front lots are not required to be part of the panhandle driveway development.

(4) Notwithstanding the provisions of § 32-4-107 of this title, the requirements of this subsection may not be waived.

(e) *Length of panhandle in DR and RC zones.*

(1) In a DR zone, the panhandle length may not exceed 500 feet.

(2) In an RC zone, the panhandle length may not exceed 1,000 feet.

(3) The maximum permitted length of a panhandle is subject to variance under § 307 of the Baltimore County Zoning Regulations.

(f) *Panhandle driveways serving multiple lots.*

(1) For panhandle driveways serving more than one lot, the developer shall note on the record plat any covenants that provide for common use and maintenance of the panhandle driveway and culvert.

(2) A use in common agreement is established if the panhandle driveway serves two or more abutting panhandle lots.

(g) *Dwelling orientation on panhandle lot.*

(1) The orientation of the dwelling on each panhandle lot shall be indicated on the Development Plan.

(2) The dwelling shall be oriented to establish a desirable relationship between:

(i) Each of the proposed dwellings and existing adjacent homes; and

(ii) The proposed dwellings themselves.

(h) *Panhandle driveway and street intersection; requirements.* At the intersection of the panhandle driveway and the street, the following shall be provided by the developer:

(1) A paved trash collection area that:

(i) Is located at the right-side intersection of the panhandle driveway and public road, as the driveway is exited; and

(ii) Is at least 16 square feet per dwelling unit served by the panhandle driveway;

(2) A mail delivery area that is located at the left intersection of the panhandle driveway and public road, as the driveway is exited; and

(3) Numerical identification of each dwelling served by the panhandle driveway in accordance with § 35-2-206 of the Code.

(i) *Construction of panhandle driveway.*

(1) The panhandle driveway shall be built in accordance with standards established by the Director of Public Works.

(2) The panhandle shall be paved within 1 year of the issuance of the first occupancy permit or before the issuance of the occupancy permit of the last lot to be served, whichever comes first.

(3) In DR zones required utilities shall be provided to all lots to be served by the panhandle before the paving of the panhandle driveway.

(j) *Parking along panhandle driveway.* Parking is not permitted along a panhandle driveway.

(k) *Waiver.* Except as provided in subsections (d) and (e) of this section, the Director of Planning may grant a waiver from any provision in this section or title if the Director finds:

(1) That the size, scope, and nature of the subdivision of land into three or fewer lots for residential single-family dwellings does not justify strict compliance with this section;

(2) That a waiver would be within the scope, purpose, and intent of this section; and

(3) Compliance with all other county ordinances and regulations.

(1988 Code, §§ 26-168, 26-266) (Bill No. 172, 1989, § 2; Bill No. 106, 1990, § 1; Bill No. 1, 1992, § 2; Bill No. 173-93, § 3, 11-17-1993; Bill No. 61-95, § 1, 6-30-1995; Bill No. 8-96, § 3, 3-23-1996; Bill No. 49-96, § 15, 7-1-1996; Bill No. 38-98, § 4, 6-20-1998; Bill No. 51-99, § 1, 8-26-1999; Bill No. 79-01, § 2, 7-1-2004)

§ 32-4-410. REQUIRED FACILITIES.

(a) *Water supply.*

(1) Water volume and pressure shall be adequate to extinguish fires in any building on a tract that is to be served by public water-supply facilities.

(2) Fire hydrants shall be provided in sufficient numbers and at appropriate locations to serve firefighting needs.

(b) *Sewage.* Proposed public or private sewage facilities shall be designed and located to function safely and without danger of contaminating groundwater, surface water, or public or private water supplies.

(c) *Drainage facilities.*

(1) In this subsection, "development" has the meaning stated in § 32-8-101 of this article.

(2) Proposed drainage facilities shall be adequate to accommodate the amount of runoff that would be generated by:

(i) The proposed development; and

(ii) The entire upstream area, if the area were fully developed in accordance with the Baltimore County Zoning Regulations in effect at the time of the design or construction.

(3) Development may not increase the extent of the floodplain on neighboring properties.

(d) *Facility easements.* Easements for cable television and other municipal and public utilities may be required where necessary to ensure adequate service to the prospective occupants or users of the proposed development.

(1988 Code, §§ 26-267, 26-268, 26-269, 26-270) (Bill No. 173-93, § 3, 11-17-1993; Bill No. 79-01, § 2, 7-1-2004; Bill No. 75-03, § 27, 7-1-2004)

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: March 28, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For March 31, 2008
Item No. 08-425

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment(s).

If access is granted through the existing driveway, we recommend that the driveway shall comply with the following:

- Paved driveway
- A 30 x 70 tee-turn around at the end of the driveway.
- Max of 14% grade on driveway
- Trash and mail box at Longnecker Road
- In addition the developer shall have a title attorney certify that he has the right to burden existing right-of-way.

DAK:CEN:clw

cc: File

ZAC-ITEM NO 08-425-03282008.doc

6/10/09 08-425-SPHA P2 + Exh 11

BW 5/20
9AM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: April 9, 2008

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

RECEIVED
APR 09 2008

SUBJECT:

BY:.....

INFORMATION:

Item Number: 08-425

Petitioner: 14223 & 14225 Longnecker Rd

Zoning: RC 2

Requested Action: Special Hearing and Variance

The petitioner requests a special hearing to allow another building lot to use the 16.5-foot driveway for access to Longnecker Rd. The petitioner is also requesting a variance from Section 32-4-409(e) of the BCZR to approve access to the subject property by way of a 16.5-foot driveway of 2,920 feet more or less in length in lieu of the allowed 1,000 feet in length.

SUMMARY OF RECOMMENDATIONS:

The Office of Planning supports both the special hearing and the variance for the above properties provided that the following conditions are met.

1. That the shared driveway meets all Public Works and Fire Department regulations.
2. That devolution of title can show when the lot was created and that it will meet all the minor subdivision requirements for RC2.

Prepared By:

Curtis Murray

Division Chief:

AFK:LL:C

Lynn Lankham

6/10/09 08-425-SPHA Pet Exh 12



BALTIMORE COUNTY
MARYLAND

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 26, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: March 24, 2008

Item Number: 425/436

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

6/10/09 08-425-SBHA Rt Exh 13

Thoughts and Exhibits
on
Letters or Comments Made by Various Parties
with Regard to the Sub-division Efforts
By
Mr. & Mrs. Kahn

May 30th, 2009

-Running a Cabinet Shop on the lot:

I am currently building cabinetry for my house.

I have one person currently employed on building cabinetry for my house.

Various deliveries have been for materials for cabinetry and trim from my house.

-Speed on the road

Kravitz claims that there is a posted speed limit on the right-of-way.

“Based on engineering and traffic investigations, local governments may establish posted speed limits.” See Exhibit 1

No traffic studies of the right-of-way performed by the State have been presented.

Residents on the right-of-way do not constitute “local government.”

“...a speed limit <25 MPH cannot be established outside an urban district.” See Exhibit 1

This right-of-way is not in a urban district, therefore, posted speeds cannot be below 25 MPH even if State traffic studies had been performed.

Kravitz claims to have “...clocked me traveling at 45 miles per hour” on the right-of-way with a radar gun used to check the speed of a pitched baseball.

In a recent test, it is not reasonably possible to exceed 35 MPH in consideration to road surface conditions, sight lines, and right-of-way segment length.

No evidence was provided to show calibration was done on the radar unit that Kravitz claimed to use to register speed.

No evidence was provided to show time, day, date, year, road conditions, or frequency of Kravitz alleged observance.

Kravitz has no policing powers.

-Maintenance of the road

I have contributed funds to support maintenance of the road:

7-16-03	93.00
5-5-04	80.43
9-30-05	190.27
7-31-07	70.00
5-28-08	47.00

My labor was generally contributed on the above dates.

My heavy equipment was generally used on the above dates with out reimbursement . See Exhibit 2

My heavy equipment was also used on many occasions not listed above in the service of refreshing the road without community reimbursement.

-Road Paving

After a bad ice storm during the winter of 2006-2007, I spoke to Bildstein a ***second time*** (bids were acquired about a year earlier as well) about getting bids to pave the right-of-way. He agreed to get them and present them to the community. Several meetings were had, and a contractor came out to present his proposal. The community was divided as to what to do. Some wanted an asphalt paving job (Bildstien, Kahn). Others wanted partial paving, or the spreading of "millings," as a temporary fix. Cost of asphalt paving was resisted by some as "not in their budget" although they had just installed an in-ground pool. Some thought that the paving would indicate to nefarious individuals that there were houses back here to thief from, ignoring the signal that already exists...a row of mailboxes in plain view at the foot of the right-of-way. Others wanted a temporary fix of placing "millings," that can easily be washed out by a heavy rain, as complained about by Kravitz at the hearing before the Zoning Commissioner, although he misattributed the cause of washout to traffic load.

Bildstein claims that I was "lukewarm" about paving road.

Grice attests to my desire to pave the road. See Exhibit 3

Paving the right-of-way that is used by a community of 9 homes, or of 13 lots, cannot be borne by one party, but must be shared by the group. Should individual budgets not allow a community investment, or should the irrational thoughts of a group (thieving parties alerted to our existence) keep a right-of-way from being paved, one should not be kept from realizing the full value of their own property due to the proclivities of the community.

-Right of Way Privilege See Exhibit 4

"To have and hold...with the rights, privileges...use and benefit...their assigns..."

500.6 In addition to his aforesaid powers, the Zoning Commissioner shall have the power, upon notice to the parties in interest, to conduct hearings involving any violation or alleged violation or noncompliance with any zoning regulations, or the proper interpretation thereof, and to pass his order thereon, subject to the right of appeal to the County Board of Appeals as hereinafter provided.

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

With respect to any zoning petition other than a petition for a special exception, variance or reclassification, the Zoning Commissioner shall schedule a public hearing for a date not less than 30 days after the petition is accepted for filing. If the petition relates to a specific property, notice of the time and place of the hearing shall be conspicuously posted on the property for a period of at least 15 days before the time of the hearing. Whether or not a specific property is involved, notice shall be given for the same period of time in at least two newspapers of general circulation in the county. The notice shall describe the property, if any, and the action requested in the petition. Upon establishing a hearing date for the petition, the Zoning Commissioner shall promptly forward a copy thereof to the Director of Planning (or his deputy) for his consideration and for a written report containing his findings thereon with regard to planning factors. [Bill No. 18-1976]

500.8 He shall have the power to prescribe rules and regulations for the conduct of hearings before him, to issue summons for and compel the appearance of witnesses, to administer oaths and to preserve order.¹¹

500.9 The Zoning Commissioner shall have the power to require the production of plats of developments or subdivisions of land, or of any land in connection with which application for building or use permits or petition for a special exception, a reclassification or a temporary use shall be made, such plats to show the location of streets or roads and of buildings or other structures proposed to be erected, repaired, altered or added to. All such plats shall be drawn to scale and shall clearly indicate the proposed location, size, front, side and rear setbacks from property lines and elevation plans of proposed buildings or other structures. Such details shall conform in all respects with the Zoning Regulations. No such plats or plans, showing the opening or laying out of roads or streets, shall be approved by the Zoning Commissioner unless such plats or plans shall have been previously approved by the Baltimore County Office of Planning and the Department of Public Works. [Resolution, November 21, 1956]

¹¹ Editor's Note: See Appendix G of this volume.

Case # 08-425 - SPHA

Russell Kuhn

Protestant's Exhibits

- ✓ 1. Prof. Exh. 1: - Website of Kuhn Camp.
- ✓ 2. Prot. Exh. 2: - DVD of Road
- ✓ 3. Prot. Exh. 3a+d - Fire ^{Track} photos
- ✓ 4. Prot. Exh. 4a+b - Tracks in town at Biltstein
- ✓ 5. Prot. Exh. 5a-s - Photos showing Road width
- ✓ 6. Prot Exh 6 - CV of Flowers

Wahjran 6/10/09

~~WJD~~

The Kahn-Companies

The Kahn-Struction Company, Ltd.

Custom Cabinetry - Design & Build

Custom Residential Structures - Design & Build

Measured Drawings for Architects

Russ Kahn - Photography

Brenda Kahn - Educational Consultant

Kahn Family Photos

Longnecker House Construction

Contact Us

All images within this site are copyrighted by The Kahn-Struction Company, Ltd.

*It is plain to see that the materials for these products
and their shipment is not done by car or pickup truck*

6/10/09 08-425-SPHA Prot. Exh. 1

<http://kahn-companies.com/index.htm>

5/27/2009

Custom Cabinetry - Design & Build Page B



[Return to Home](#) [Back](#)

Custom Cabinetry - Design & Build Page A



[Return to Home](#) [Next](#)

3rd Prot. Ehn 6/10/04 0-8-425 SPHVA



04.10.2009 11:31

36 Pct 6/10/09 08-425.52HA

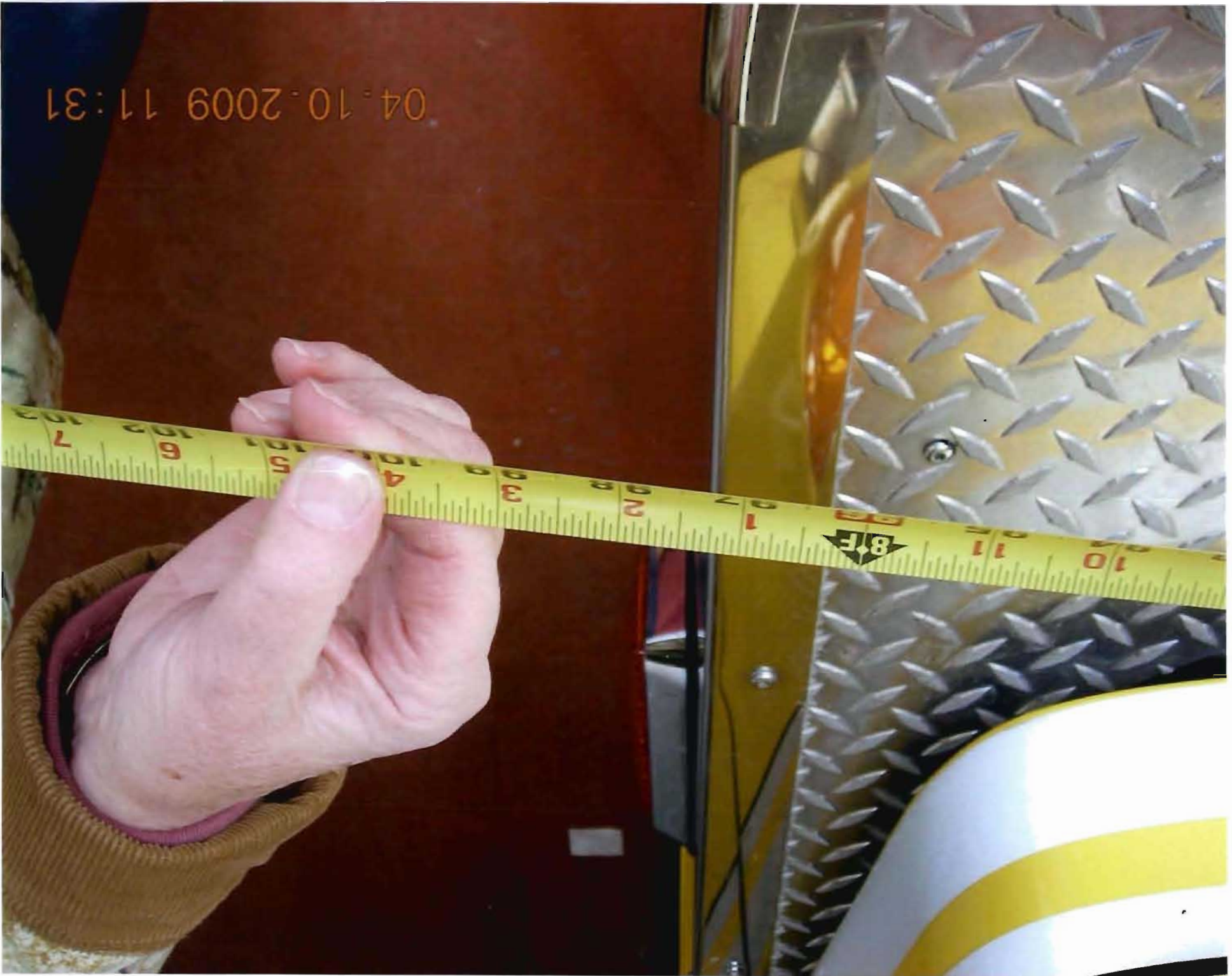




PHOTO # /

WIDTH OF EXISTING DRIVEWAY

6/10/09 08-425-SPH-4 Prot Exh 5a-

A



PHOTO #

2

WIDTH OF EXISTING DRIVEWAY



WIDTH OF EXISTING DRIVEWAY



4



PHOTO # 4

WIDTH OF EXISTING DRIVEWAY

D



05.14.2008 15:44



05.14.2008 15:45

PHOTO #

9

WIDTH OF EXISTING DRIVEWAY



PHOTO #

6

WIDTH OF EXISTING DRIVEWAY



05.14.2008 15:38

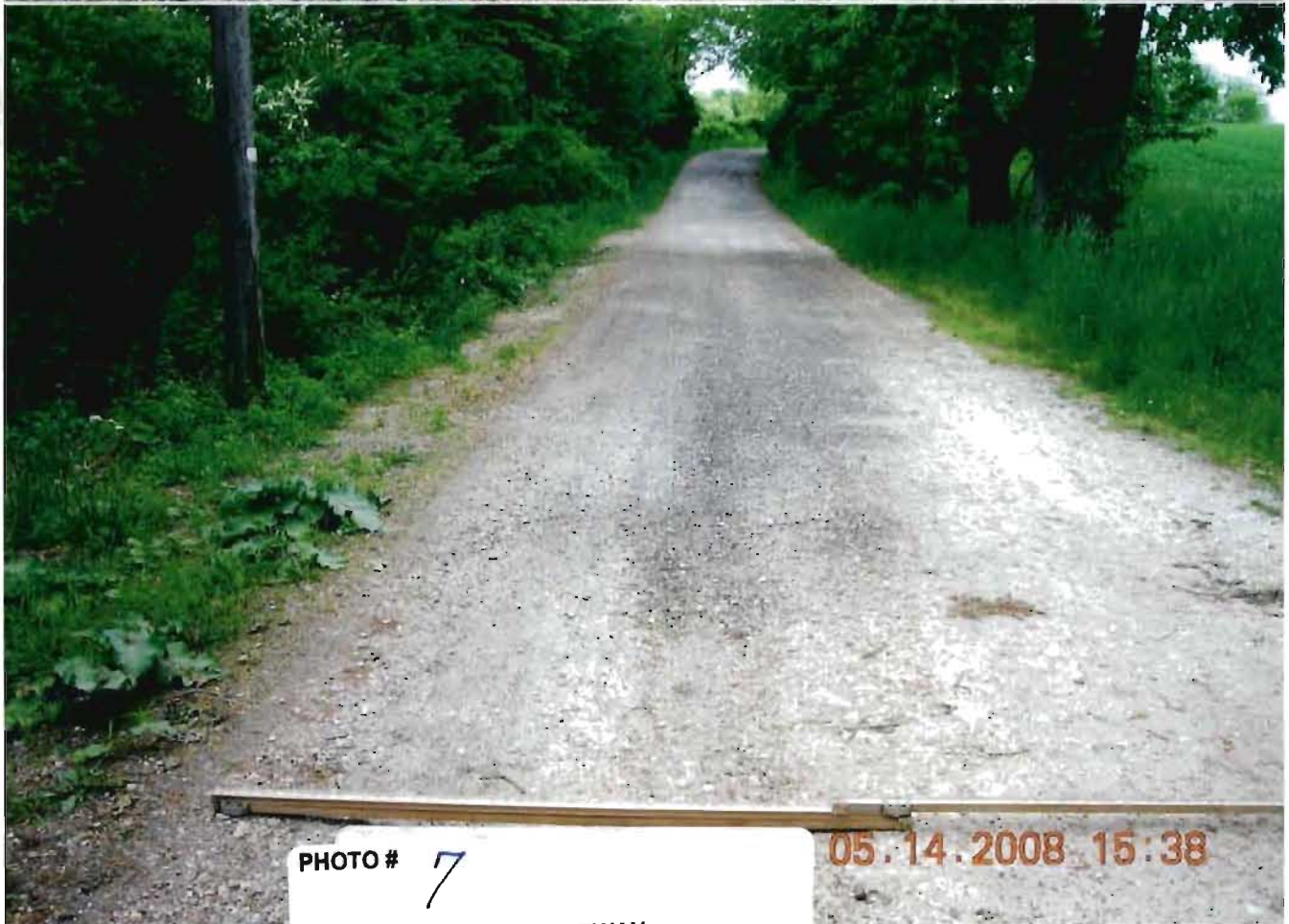


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WIDTH OF EXISTING DRIVEWAY



PHOTO # 7A

WIDTH OF EXISTING DRIVEWAY



WIDTH OF EXISTING DRIVEWAY

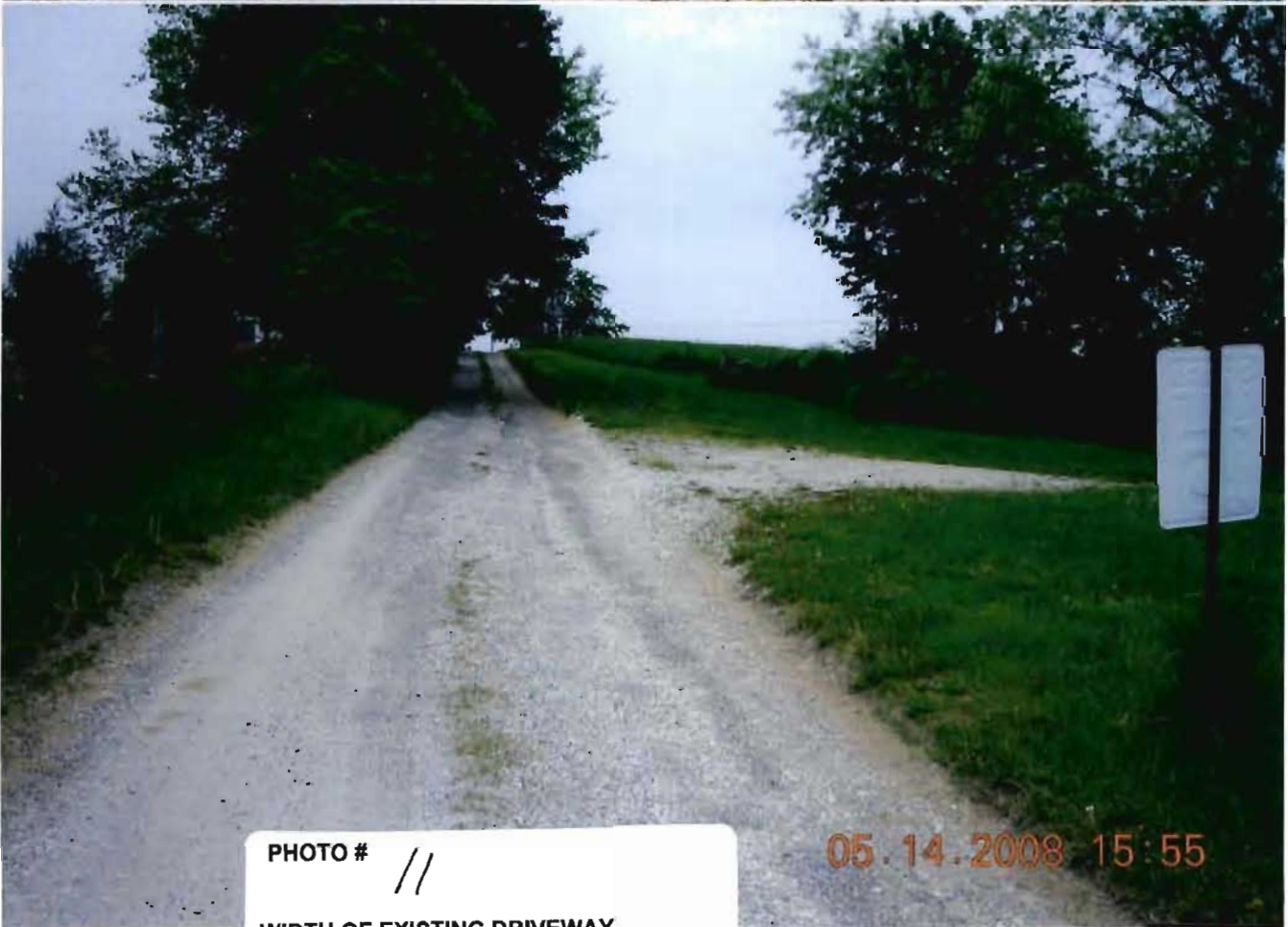




PHOTO # 12
WIDTH OF EXISTING DRIVEWAY

12

13A



PHOTO #

13 A

WIDTH OF EXISTING DRIVEWAY

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PHOTO #

13

WIDTH OF EXISTING DRIVEWAY

13



05.14.2008 16:58



05.14.2008 16:58

PHOTO #

14

WIDTH OF EXISTING DRIVEWAY

15



05.14.2008 16:59



05.14.2008 16:59

PHOTO # 15

WIDTH OF EXISTING DRIVEWAY

Q



PHOTO #

15 A

WIDTH OF EXISTING DRIVEWAY



05.14.2008 17:00



05.14.2008 17:01

PHOTO #

16

WIDTH OF EXISTING DRIVEWAY

16



PHOTO # 5

WIDTH OF EXISTING DRIVEWAY

05.02.2008 10:24



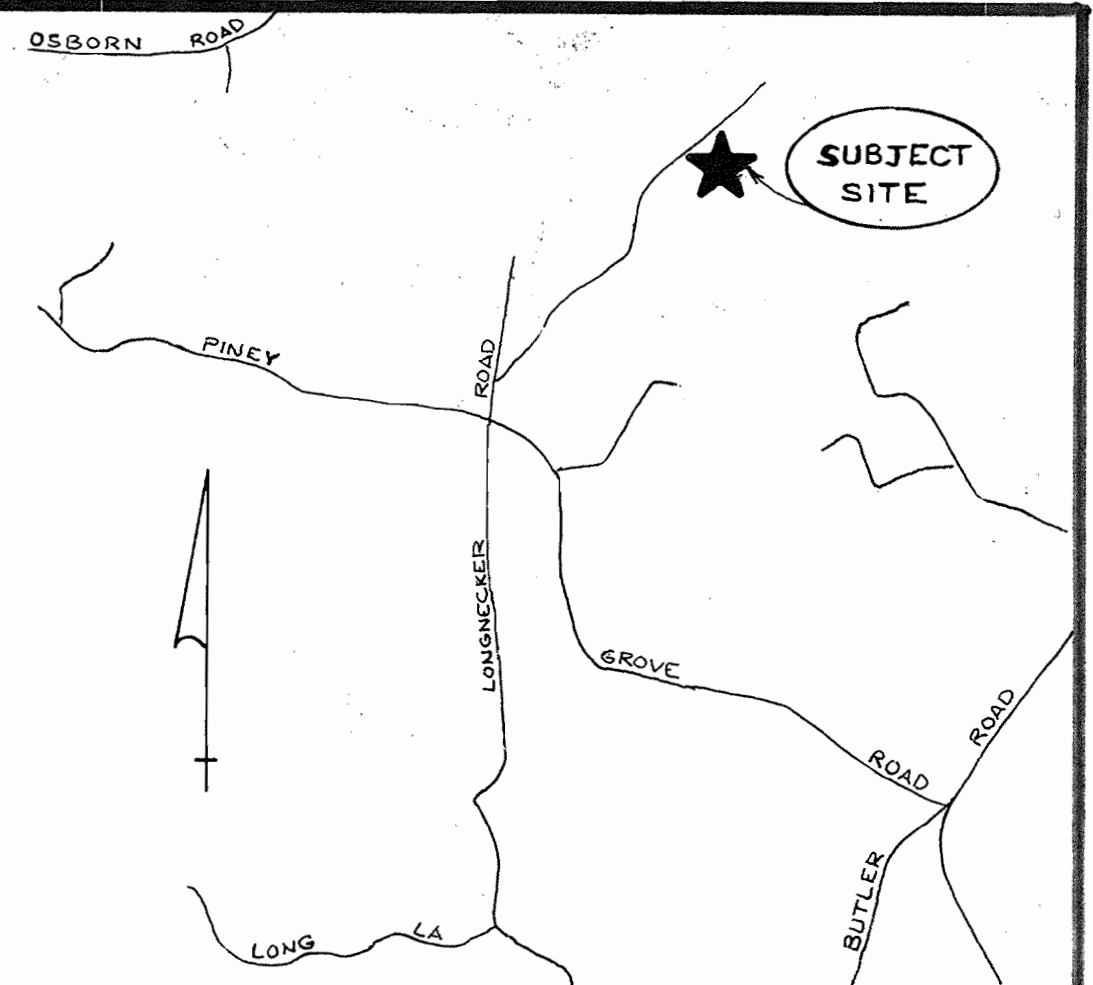
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WIDTH OF EXISTING DRIVEWAY

05.02.2008 10:27

GENERAL NOTES

1. THERE ARE NO ARCHEOLOGICAL SITES, HAZARDOUS MATERIALS, ENDANGERED SPECIES HABITATS, OR HISTORIC BUILDINGS OR LANDMARKS 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 PROPERTY.
4. THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
5. THE SUBJECT PROPERTY HAS NO PREVIOUS ZONING CASE HISTORY.

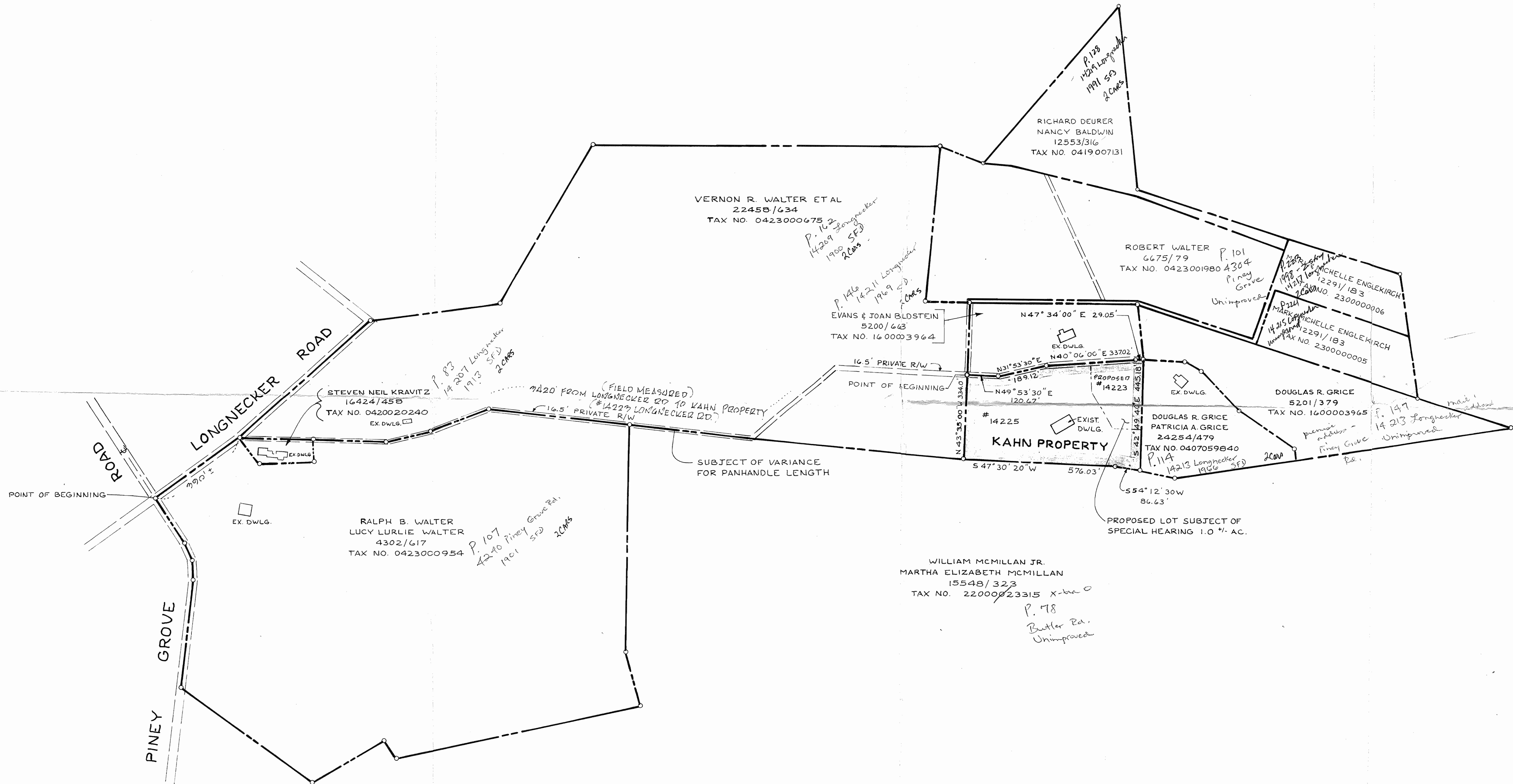


VICINITY MAP

NOT TO SCALE

SITE DATA

SITE AREA	5.94 AC +/-
EXIST. ZONING	RC-2
COUNCILMANIC DISTRICT	3RD
ZONING MAP	040A1/032A3
DEED REFERENCE	23508/201
TAX MAP/GRID/PARCEL	32/20/102
TAX ACCOUNT NO.	1600003966



REVISIONS	
NO.	DESCRIPTION
1	2.4.08 REV PER FILING CONF
2	3.6.08 REV PER ZONING OFFICE COMMENTS
3	7.30.08 REV PER ZONING HEARING COMMENTS

SPELLMAN, LARSON & ASSOCIATES, INC.

CIVIL ENGINEERS AND LAND SURVEYORS
222 BOSLEY AVENUE SUITE B-3 TOWSON, MD 21204
PHONE: 410-823-3535

PLAT TO ACCOMPANY

PETITION FOR SPECIAL HEARING & VARIANCE

KAHN PROPERTY

14223 PETITIONER'S ROAD

EXHIBIT NO. 1 UNTY

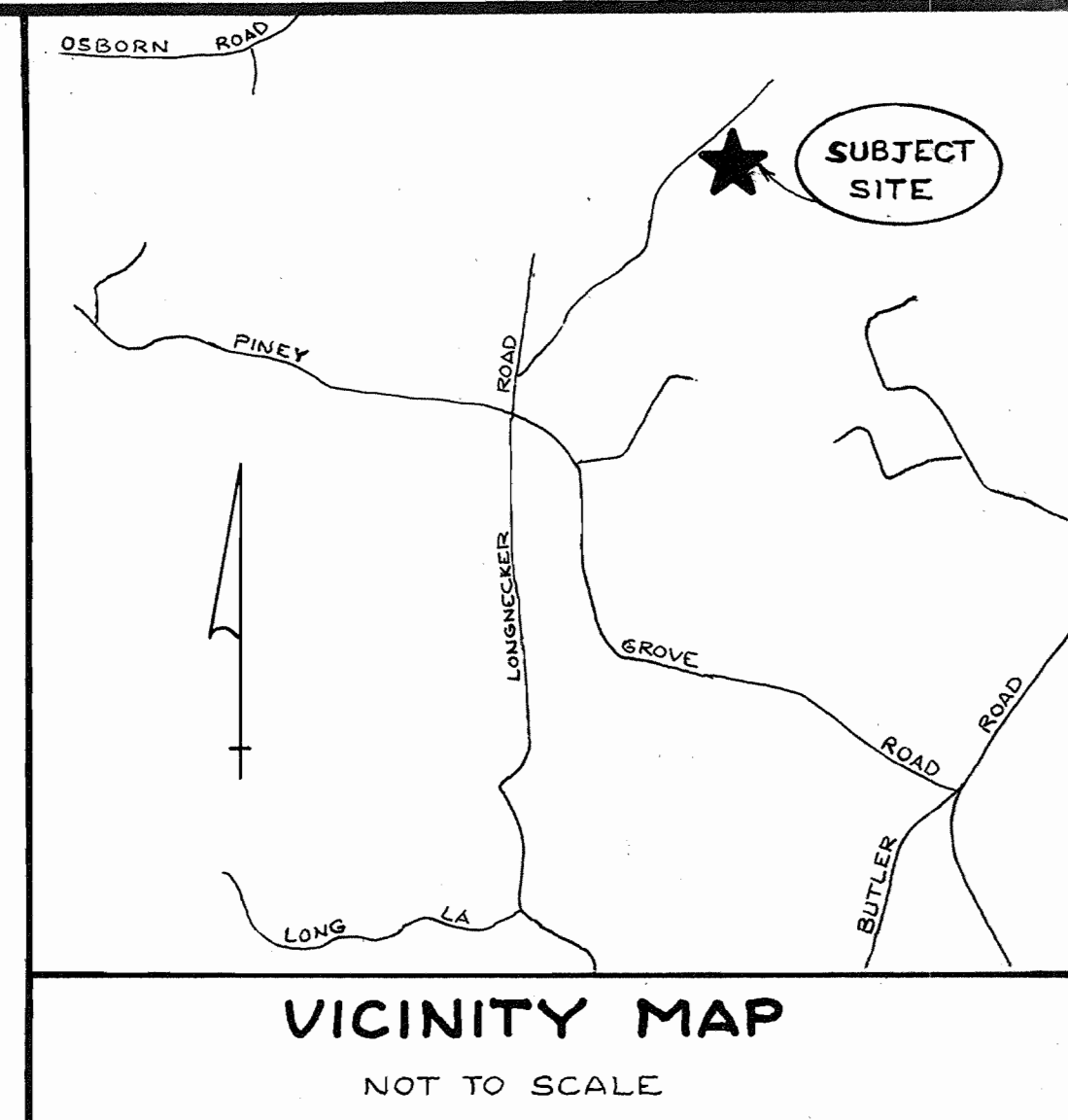
4TH ELECT

SCALE: 1" = 200' DES. BY: DATE: JAN. 11, 2008 DWN. BY: T.C. SHT. 1 OF 1

OWNER INFORMATION

RUSSEL A. KAHN
BRENDA KAHN
14225 LONGNECKER ROAD
GLYNDON, MD. 21136-4845
PHONE: 410-429-5040

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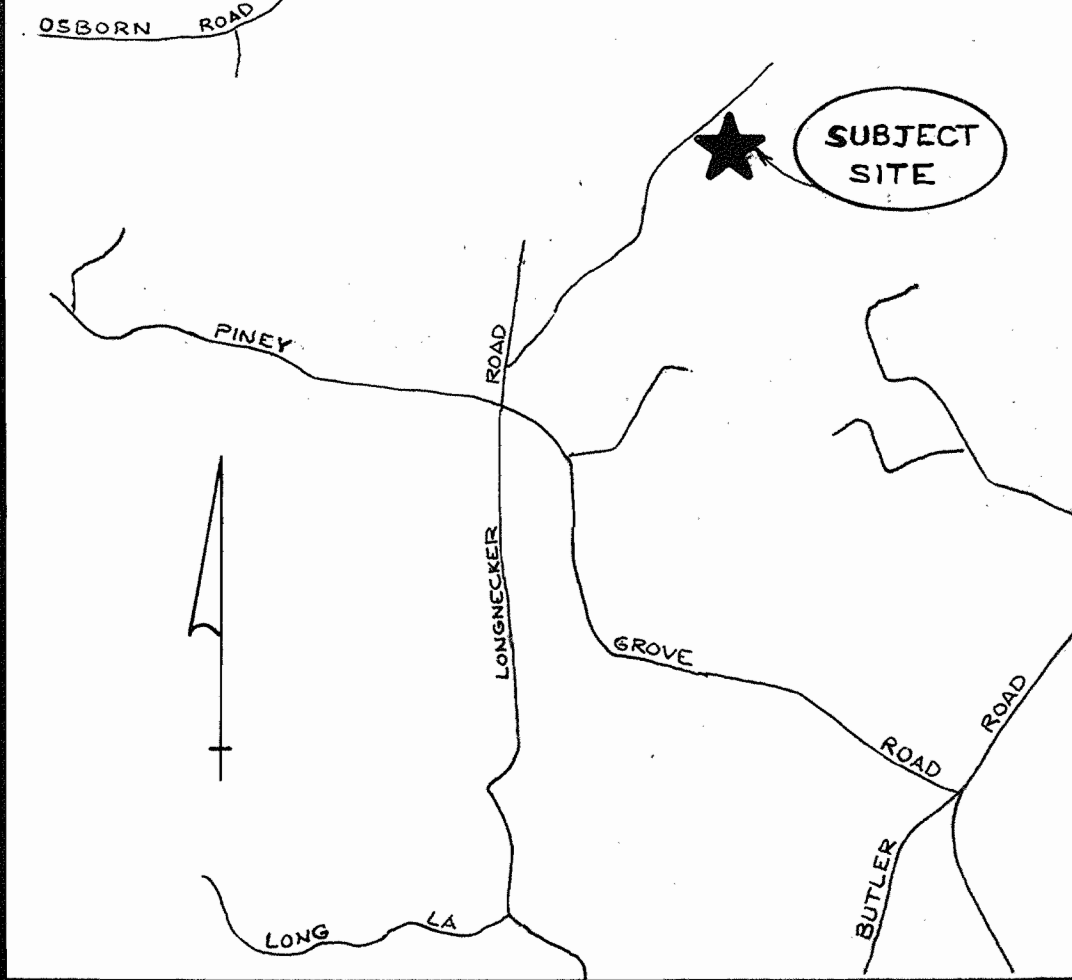
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CASE # 08-425 SPHA

SCALE: 1" = 200'	DES. BY:	SHT. OF
DATE: JAN. 11, 2008	DRAWN BY: TC	

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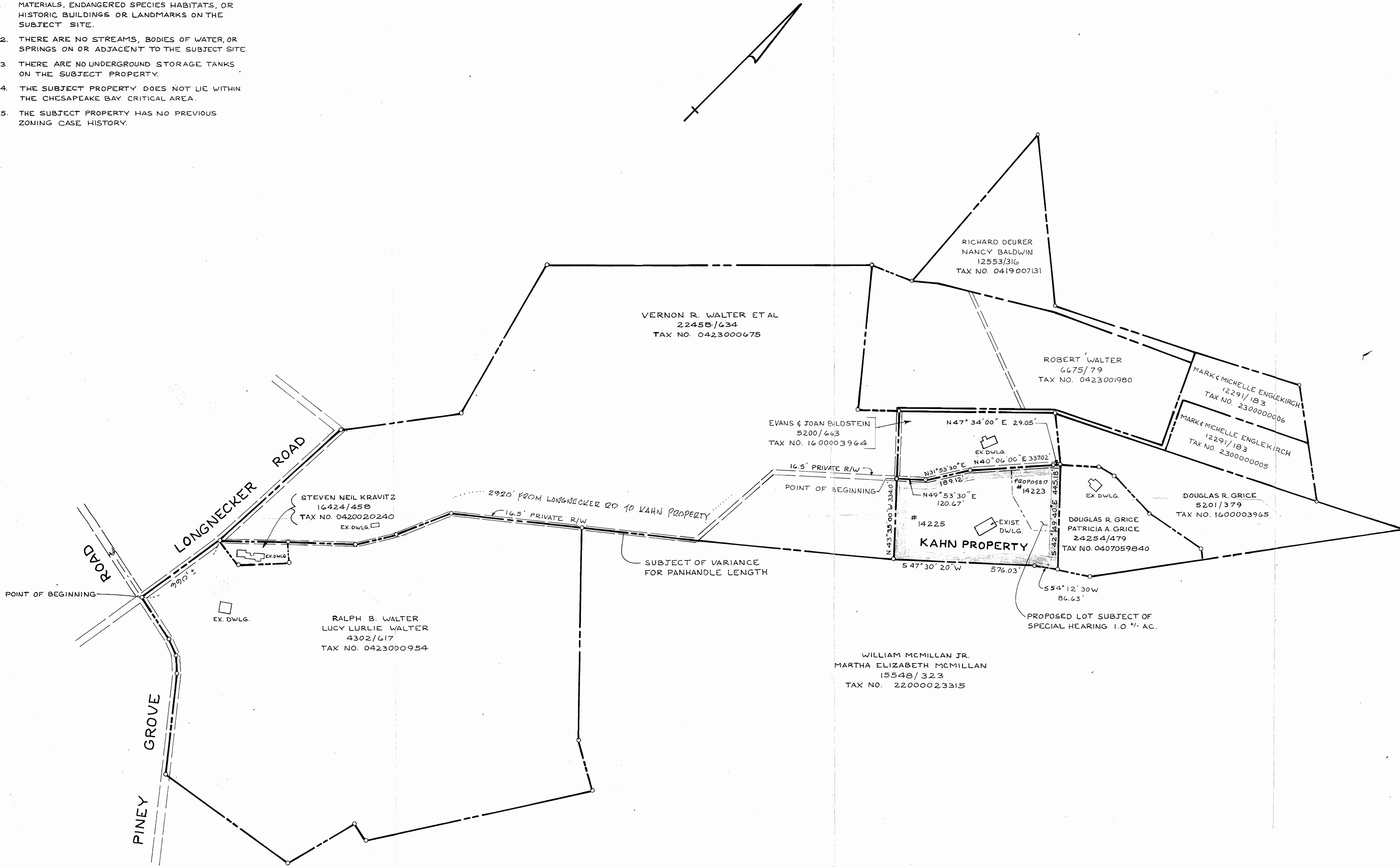


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ZONING MAP	040A1/032A3
DEED REFERENCE	23508/201
TAX MAP/GRID/PARCEL	32/20/02
TAX ACCOUNT NO.	1600003966



REVISIONS	
NO.	DESCRIPTION
1	2-4-08 REV. PER FILING CONF.
2	3-6-08 REV. PER ZONING OFFICE COMMENTS

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& VARIANCE

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14223 & 14225 LONGNECKER ROAD

4TH ELECTION DISTRICT BALTIMORE COUNTY

OWNER INFORMATION

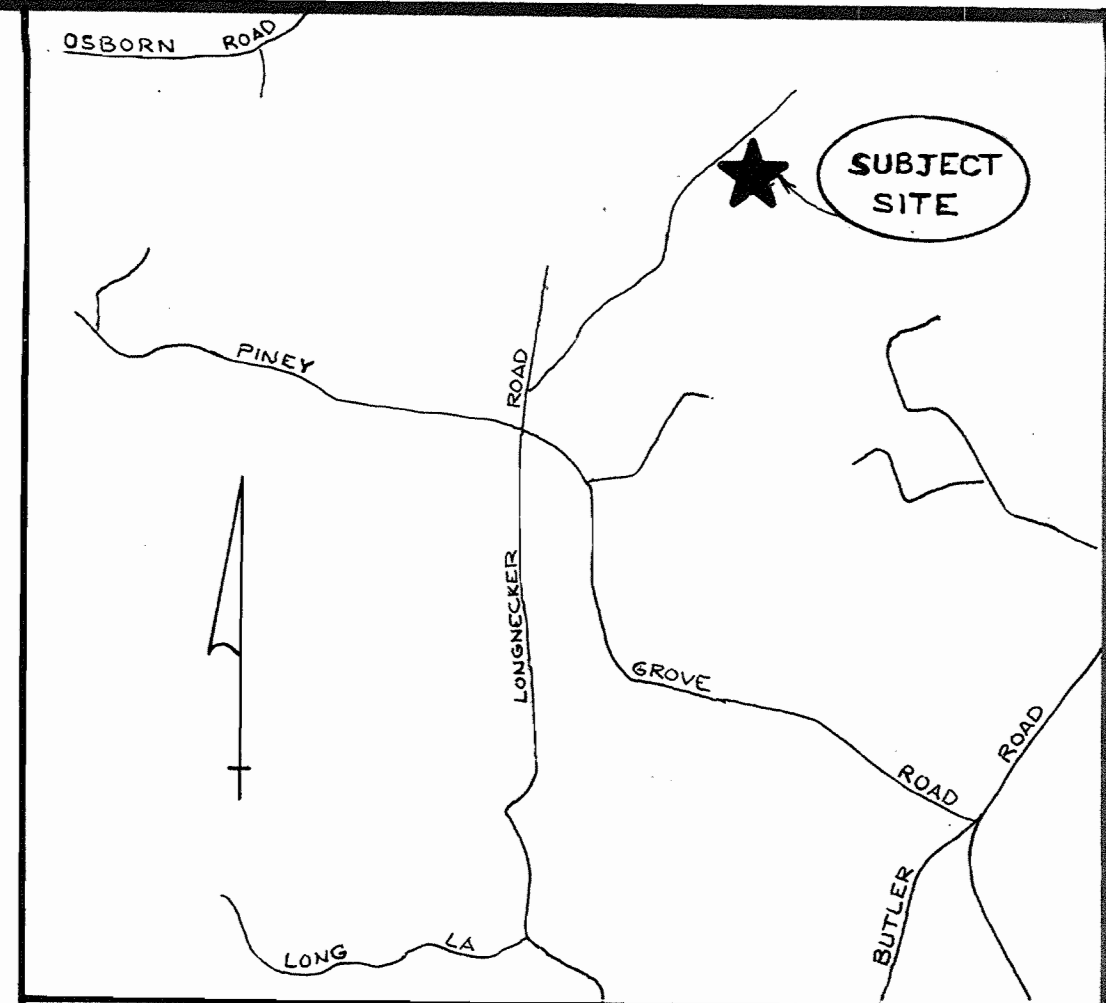
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BRENDA KAHN
14225 LONGNECKER ROAD
GLYNDON, MD. 21136-4845

PHONE: 410 429-5040

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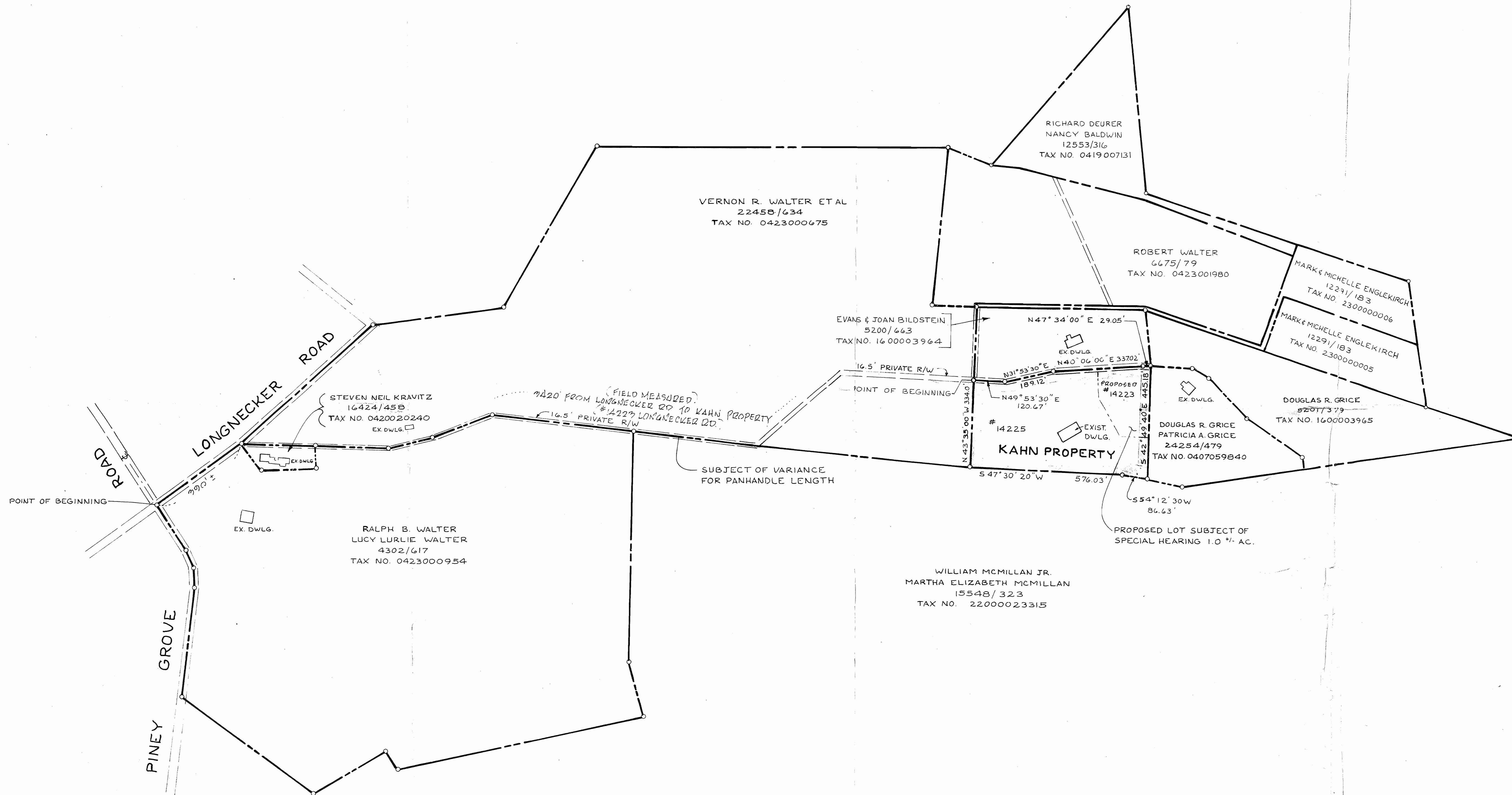


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