

IN RE: **PETITION FOR VARIANCE**
W/S Padonia Road, 750' NW
Intersection of Jenifer Road
(703 B Padonia Road)
8th Election District
2nd Council District

Caleb R. Kelly, III
Petitioner

*
*
*
*
*

BEFORE THE

ZONING COMMISSIONER

OF

ZONING COMMISSIONER

Case No. 2008-0505-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Caleb R. Kelly, III. As originally filed, the Petitioner requested variance relief from Section 1A04.3B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback (south side) of 2 feet in lieu of the required 50 feet.¹ The subject property and requested relief are more particularly shown on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Caleb Kelly, III, property owner, his wife, Maureen M. Kelly, and Bruce E. Doak, a principal of Gerhold Cross & Etzel, Ltd., the consultant who prepared the site plan for this property and is assisting the Petitioner with his variance request. There were no Protestants or other interested persons present.

Testimony and evidence offered disclosed that the subject property is an irregularly shaped lot located west of Jenifer Road south of Padonia Road in Cockeysville. The property contains a gross area of 1.64 acres, more or less, zoned R.C.5, and is improved with a 1-story, single-family dwelling which features an attached deck on the south side of the home. The

¹ Subsequent to the hearing, and Petitioner having failed to obtain a release of the 10-foot drainage and utility easement that restricts construction of permanent structures along the property's southern boundary, the site plan and Petition were amended to reflect a setback request of 10 feet in lieu of the required 50 feet. See redlined site plan, dated 3/24/09 received as Petitioner's Exhibit 4.

COPIES RECEIVED FOR FILING
Date 3-25-09
By 193

Petitioner has resided on the property since 1963 and obtained the property from his father (deceased) in April 2003. Mr. and Mrs. Kelly propose the construction of an attached garage on the south side of the existing deck and submitted building elevations (Petitioner's Exhibit 2) which clearly shows that the proposed "post tension" constructed garage will be compatible with the neighborhood and aesthetically pleasing as it will match the existing home. As illustrated on the site plan, there is a 66-foot wide BG&E right-of-way bordering along the entire southern boundary of the property. To the south of the right-of-way is the much-publicized land owned by the Padonia Corporation t/a The Padonia Swim Club. The closest structure on that property is some 200 yards away from the Petitioner's property. The closest neighbor is John G. Turnball, III, Esquire, and his wife, Adele, who are well known by the undersigned Zoning Commissioner. The Turnball's property is well buffered and the garage will not be seen from their home. In this regard, the Turnball's have reviewed the proposal and have no objections. However, it is to be noted that in its Zoning Advisory Committee (ZAC) comment, dated May 12, 2008, the Bureau of Development Plans Review indicated that a minimum side yard setback of 10 feet should be maintained in view of a drainage and utility easement depicted as existing in this area.

Mr. Kelly stated, and the elevation markings shown on Petitioner's Exhibit 1 confirm, that his home is built on top of a hill rendering the need for a drainage and utility easement in this area meaningless. In an effort to resolve this issue and as set forth in Mr. Kennedy's ZAC comment, the record of the case remained open to allow the Petitioner to "try to have the easement released by the County". On March 24, 2009, the site plan was amended to reflect a minimum side yard setback of 10 feet.

Section 307 of the B.C.Z.R. provides the standard by which variances must be adjudged.

RECEIVED FOR FILING
Date 3-25-09
BY [Signature]

That section provides that a variance can be granted only if the Petitioner shows a practical difficulty or unreasonable hardship. Additionally, variance relief can only be approved if the proposed use will not be detrimental to the surrounding locale and is consistent with the spirit and intent of the regulations. In this case, I easily find that the Petitioner has satisfied his burden. The site constraints imposed by the lot's irregular shape and the location of the existing structure on the lot, as corroborated by the Office of Planning in its ZAC comment of May 13, 2008 satisfies the uniqueness and practical difficulty standard. The new addition cannot be located in any other area than where it is proposed. Given the fact that a 66-foot wide utility easement exists adjacent to the proposed structure succeeded next by the athletic fields of the Padonia Swim Club, I find that relief can be granted within the spirit and intent of the regulations and without any harm to the neighborhood or the surrounding locale. Strict compliance with the setback regulations would deprive the Petitioner of a reasonable use of having a garage on the property.

Based upon the testimony and evidence presented, I am persuaded to grant the variance requested. In my judgment, the property is unique, given its irregular shape and the location of the existing structure. Moreover, strict adherence to the regulations would constitute a practical difficulty on the Petitioner in that he and his wife would be denied a reasonable and significant use of the property as discussed in *Belvoir Farms v. North*, 355 Md. 259 (1999) and *White v. North*, 356 Md. 31 (1999). Certainly a garage is a reasonable accessory use to a residence. Moreover, I do not believe that the grant of relief will be detrimental to adjacent properties. As noted above, the proposed house is compatible with others in the area and his neighbor has no objection.

Pursuant to the advertisement, posting of the property and public hearing on the Petition

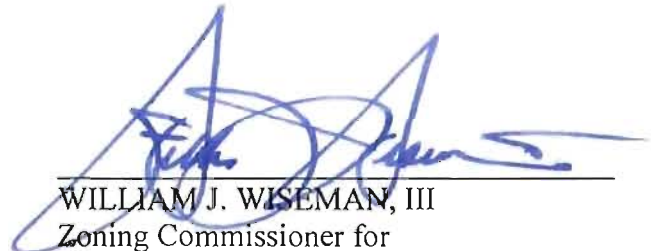
COPIES REQUIRED FOR PLANNING
DATE 3-25-09
BY [signature]

held, and for the reasons given above, the requested Variance shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 25th day of March 2009 that the Petition for Variance from Section 1A04.3B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 10 feet (south side) in lieu of the required 50 feet, in accordance with Petitioner's Exhibit 4 be and is hereby GRANTED, subject to the following condition:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, the Petitioner is hereby made aware that proceeding at this time is at his own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

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


WILLIAM J. WISEMAN, III
Zoning Commissioner for
Baltimore County

RECEIVED FOR FILED
Date 3-25-09
1903



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

March 25, 2009

Caleb R. Kelly, III
Maureen M. Kelly
703 B West Padonia Road
Cockeysville, Maryland 21030

RE: **PETITION FOR VARIANCE**

W/S Padonia Road, 750' NW Intersection of Jenifer Road
(703 B Padonia Road)
8th Election District - 2nd Council District
Caleb R. Kelly, III - Petitioner
Case No. 2008-0505-A

Dear Mr. and Mrs. Kelly:

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

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

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: Bruce E. Doak, Gerhold Cross & Etzel, Ltd., 320 East Towsontown Boulevard,
Suite 100, Towson, MD 21286
People's Counsel; Office of Planning; Bureau of Development Plans Review; File



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 703 B PADONIA ROAD

which is presently zoned RC-5

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

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print _____

Signature _____

Address _____ Telephone No. _____

City _____ State _____ Zip Code _____

Attorney For Petitioner:

Name - Type or Print _____

Signature _____

Company _____

Address _____ Telephone No. _____

City _____ State _____ Zip Code _____

Legal Owner(s):

CACER R. KELLY III
Name - Type or Print _____

[Signature]
Signature _____

Name - Type or Print _____

Signature _____

703 B. W. PADONIA ROAD
Address _____ Telephone No. _____

COCKEYSVILLE, MD 21030
City _____ State _____ Zip Code _____

Representative to be Contacted:

GERHOLD CROSS, 4 ETZEL
BRUCE DOAK c/o G.C. & E.
Name SUITE 100

320 E. TOWSONTOWN BLVD
Address _____ Telephone No. _____

TOWSON MD 823-4470
City _____ State _____ Zip Code _____

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By [Signature] Date 3/24/08

Case No. 2008-0508-A

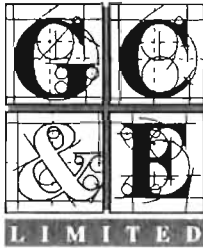
2008/03/25 COPIES RECEIVED FOR FILING

Date 3-25-08

By [Signature]

VARIANCE REQUESTED
703 B PADONIA ROAD

FOR A SIDE YARD SETBACK OF 2 FEET IN LIEU OF THE REQUIRED 50 FEET
PER SECTION 1A04.3.B.2.b OF THE B.C.Z.R.



Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

April 9, 2008

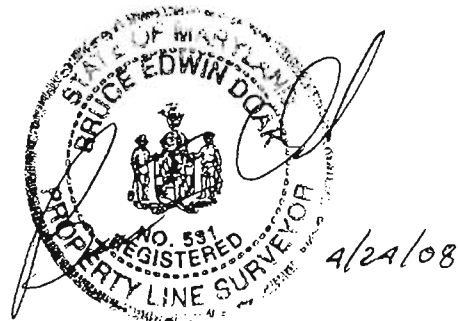
ZONING DESCRIPTION FOR THE KELLY PROPERTY 703 B Padonia Road Baltimore County, Maryland

Beginning for the same at the intersection of the west side of Jenifer Road and the south side of Padonia Road, running northwesterly along the south side of Padonia Road to the point of beginning.

750'

Being lot #2 in the subdivision of "Caleb's Acres" as recorded in Baltimore County Plat Book #39, Folio #92, containing 1.644 acres. Also known as 703 B Padonia Road and located in the eighth election district, second councilmanic district.

Note: This description only satisfies the requirements of the Office of Zoning and is not to be used for the purposes of conveyance.



2008-0505-~~591~~A

**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: # 2008-0605-A

703B Padonia Road
W/side of Padonia Road, 750
feet +/- n/west of the intersec-
tion of Jenifer Road
8th Election District
2nd Councilmanic District
Legal Owner(s): Caleb R. Kelly,
III

Variance: to permit a side yard
setback of 2 feet in lieu of the
required 50 feet.

**Hearing: Thursday, June 19,
2008 at 10:00 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) 887-3868.

(2) For information concern-
ing the File and/or Hearing,
Contact the Zoning Review Of-
fice at (410) 887-3391.


JT 6/613 June 3 174915

CERTIFICATE OF PUBLICATION

6/5/, 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 6/3/, 2008.

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



LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **14044**

Date: 4/24/08

PAID RECEIPT

BUSINESS ACTUAL TIME ORN
 4/25/2008 4/24/2008 15:49:51 2
 REG NO:2 MAIL 11:56 JEE
 >>RECEIPT # 575991 4/24/2008 OFLN
 Dept: 5 528 (CREDIT VERIFICATION)
 014044
 Recpt Tot 365.00
 465.00 CR 1.00 CA
 Baltimore County, Maryland

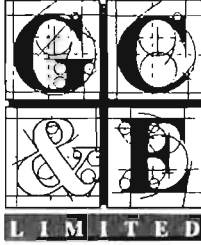
Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	006			6150				65.00

Total: 65.00

Rec From: Yancey Dantz 2008-0505-A
 For: 703 B Pedavia Rd.
Baltimore MD 21070

DISTRIBUTION
 WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**



Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

CERTIFICATE OF POSTING

RE: CASE#08-0505-A
PETITIONER/DEVELOPER:
Caleb R. Kelly, III
DATE OF HEARING: 6/19/08

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVE.
TOWSON, MARYLAND 21204

ATTENTION: KRISTEN MATTHEWS

LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE NECESSARY
SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE PROPERTY LOCATED AT

(see page 2 for full size photo)

POSTED ON: 6/02/08

LOCATION:
703B Padonia Road

SIGNATURE OF SIGN POSTER

Bruce E. Doak

GERHOLD, CROSS & ETZEL, LTD
SUITE 100
320EAST TOWSONTOWN BLVD
TOWSON, MARYLAND 21286
410-823-4470 PHONE
410-823-4473 FAX

ZONING NOTICE

CASE # :2008-0505-A

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

PLACE: Room 407 County Courts Building

TIME & 401 Bosley Avenue, Towson, MD

DATE : 10:00 am Thursday June 19, 2008

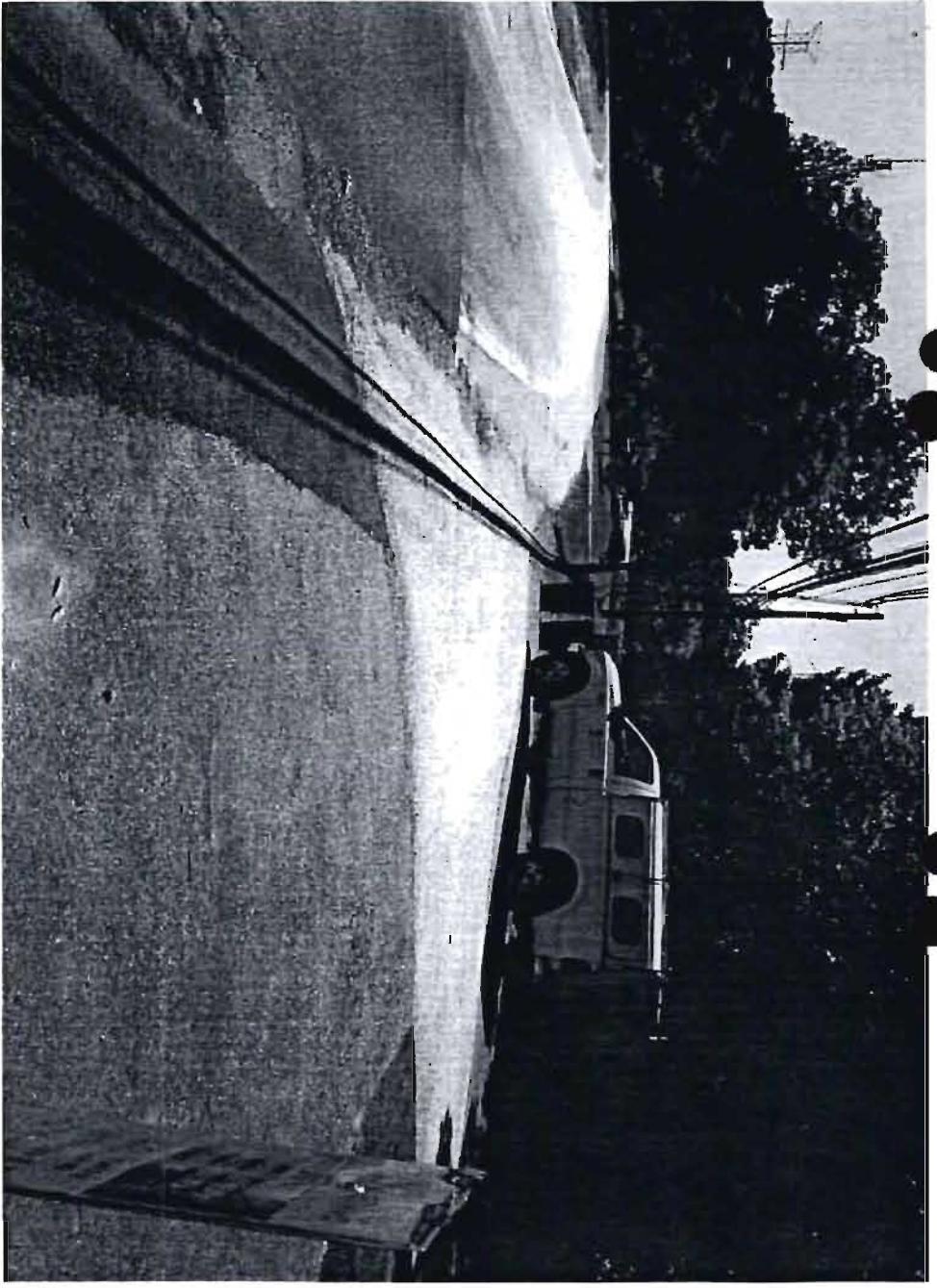
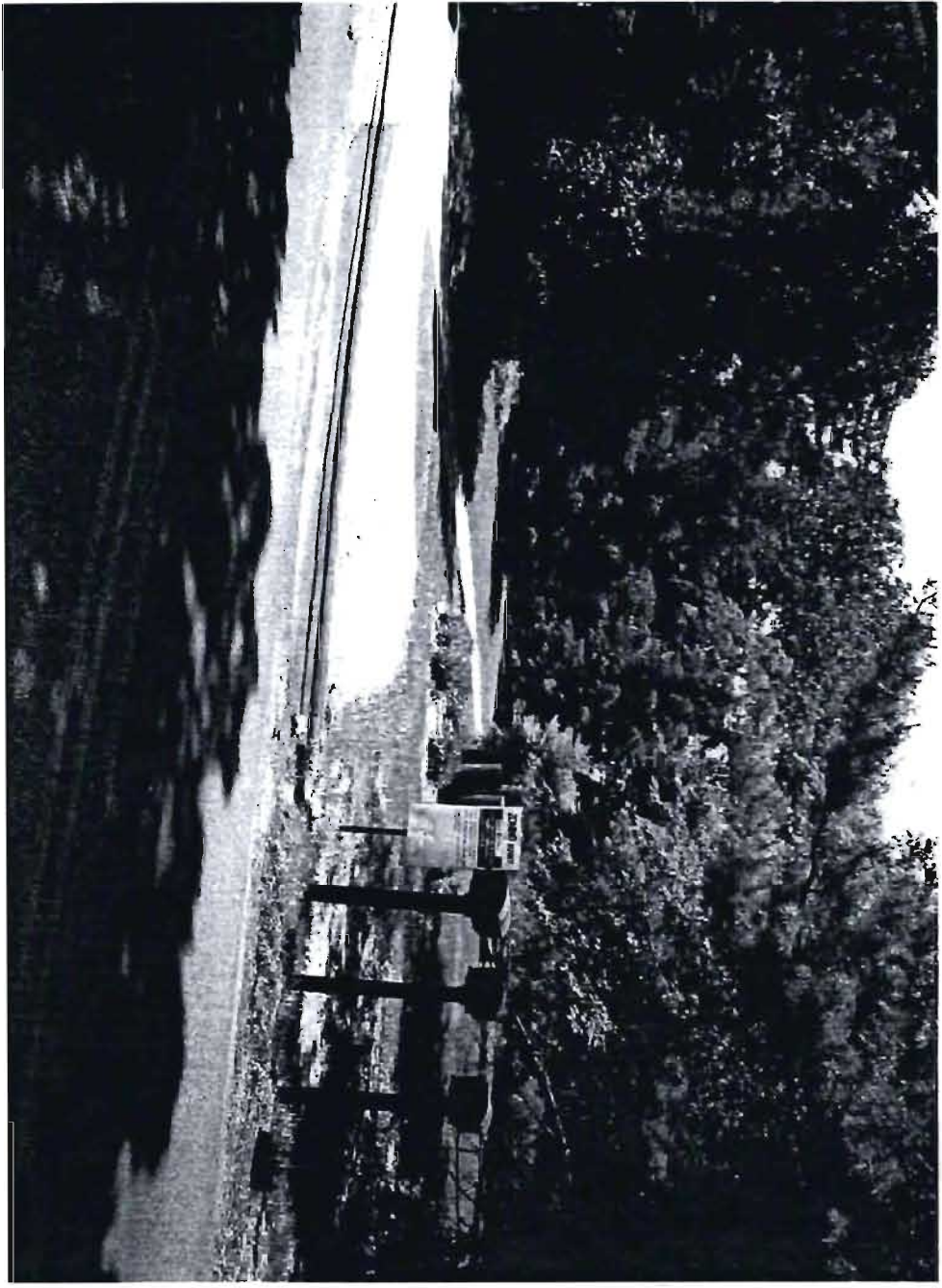
**Variance: to permit a side yard setback of 2 feet in lieu
of the required 50 feet.**

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING.

CALL 410-887-3391 THE DAY BEFORE THE SCHEDULED HEARING DATE.

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

GIC
E
Consulting, Planning & Design, LLC



DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 2008-0505-A
Petitioner: CALEB KELLY
Address or Location: 703 B PADONIA RD

PLEASE FORWARD ADVERTISING BILL TO:

Name: CALEB KELLY
Address: 703 B. PADONIA RD
COCKEYSVILLE, MD 21030
Telephone Number: 410-823-4470
823

Revised 2/20/98 - SCJ



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

May 21, 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: 2008-0505-A

703B Padonia Road

W/side of Padonia Road, 750 feet +/- n/west of the intersection of Jenifer Road

8th Election District – 2nd Councilmanic District

Legal Owners: Caleb R. Kelly, III

Variance to permit a side yard setback of 2 feet in lieu of the required 50 feet.

Hearing: Thursday, June 19, 2008 at 10:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Caleb Kelly, III, 703B W. Padonia Road, Cockesville 21030

Bruce Doak, GC & E., 320 E. Towsontown Blvd., Ste. 100, Towson 21204

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, JUNE 4, 2008.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, June 3, 2008 Issue - Jeffersonian

Please forward billing to:

Caleb Kelly, III
C/o Bruce Doak
Gerhold, Cross & Etzel
320 E. Towsontown Blvd, Ste. 100
Towson, MD 21204

410-823-4470

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: 2008-0505-A

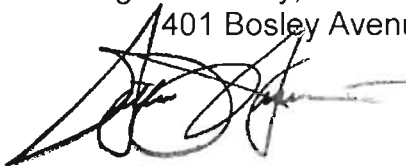
703B Padonia Road

W/side of Padonia Road, 750 feet +/- n/west of the intersection of Jenifer Road
8th Election District – 2nd Councilmanic District

Legal Owners: Caleb R. Kelly, III

Variance to permit a side yard setback of 2 feet in lieu of the required 50 feet.

Hearing: Thursday, June 19, 2008 at 10:00 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
Caleb Kelly
703B W. Padonia Rd.
Cockeysville, MD 21030

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management
June 11, 2008

Dear: Caleb Kelly

RE: Case Number 2008-0505-A, Address: 703B W. Padonia Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 24, 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:lnw

Enclosures

c: People's Counsel
Bruce Doak: Gerhold Cross, & Etzel, 320 E. Towsontown Blvd., Towson, MD 21204

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: May 12, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For May 12, 2008
Item No. 08-505

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

Construction of a permanent structure is not permitted in a drainage and utility easement. The minimum side yard setback must be 10 feet or the petitioner may try to have the easement released by the County.

DAK:CEN:cab

cc: File

ZAC-ITEM NO 08-505-05092008.doc

BW 6/19
10AM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 13, 2008

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

RECEIVED
MAY 14 2008

BY:.....

SUBJECT: Zoning Advisory Petition(s): **Case(s) 08-505- Variance**

The Office of Planning has reviewed the above referenced case(s) and does not oppose the requested relief given the unique nature of the property.

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

Prepared By: Curtis Greenway

Division Chief: Lynn Lankford
CM/LL



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

State Highway
Administration

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

Maryland Department of Transportation

Date: MAY 5, 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. B-505-A
703 B PADONIA ROAD
KELLY PROPERTY
VARIANCE

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. B-505-A.

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

Very truly yours,

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

RE: PETITION FOR VARIANCE
703 B Padonia Road; W/S Padonia Road,
750' NW intersection of Jenifer Road
8th Election & 2nd Councilmanic Districts
Legal Owner(s): Caleb Kelly, III
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* 08-505-A

* * * * *

ENTRY OF APPEARANCE

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

RECEIVED
MAY 14 2008
Per.....

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of May, 2008, a copy of the foregoing Entry of Appearance was mailed to Bruce E. Doak, Gerhold, Cross & Etzel, Ltd, 320 E Towsontown Blvd, Towson, MD 21286, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Bill Wiseman - Side Yard Variance for Garage

From: Bill Wiseman
To: crk3@verizon.net
Subject: Side Yard Variance for Garage

Caleb-

Please give me the benefit of an update. Any progress with the County concerning the utility easement release?

Has the Grace Fellowship situation caused you to change plans. I've been holding your case open since June and have to take action one way or the other this month.

Bill Wiseman - Re: Side Yard Variance for Garage

From: Caleb Kelly <crk3@verizon.net>
To: Bill Wiseman <wwiseman@baltimorecountymd.gov>
Date: 10/31/08 10:58:25 PM
Subject: Re: Side Yard Variance for Garage

I am sorry for no reply. I have not had time to re design my garage. I would like to build with-in existing limits, if approval with in building limitations would be approved. I will redesign garage, with a flat roof. Please advise!

On 10/31/08 3:23 PM, "Bill Wiseman" <wwiseman@baltimorecountymd.gov> wrote:

Caleb-

Please give me the benefit of an update. Any progress with the County concerning the utility easement release?

Has the Grace Fellowship situation caused you to change plans. I've been holding your case open since June and have to take action one way or the other this month.

William J. Wiseman, III
Zoning Commissioner
Jefferson Building, Suite 103
105 West Chesapeake Avenue
Towson MD 21204

Ph: 410-887-3868 Fax: 410-887-3468
wwiseman@baltimorecountymd.gov

Bill Wiseman - Re: 2008-0505-A

From: Bill Wiseman
To: Kennedy, Dennis
Subject: Re: 2008-0505-A

Thanks Dennis-

I'll stop by and pick up the papers I left with you.

Bill

>>> Dennis Kennedy 11/06/08 11:24 AM >>>

Bill:

I checked with Lois Bergman today and she said that the Kelly's have not applied to release the drainage and utility easement, so I recommend that you deny the variance request and close the file.

Dennis Kennedy

>>> Bill Wiseman 11/3/2008 3:32 PM >>>

Thanks Dennis-

As I told Carol, I won't to get this off my desk and I don't think Bruce Doak is helping Kelly with this problem. I can deny his request or approve the variance subject to obtaining the release. I'll await your advice. With the Grace Fellowship Church going in next to his property he has a lot more to worry about then building a garage!

Bill

>>> Dennis Kennedy 11/03/08 3:21 PM >>>

Bill:

I have not seen an easement release request for this yet. I went to talk to Lois Bergman in Land Acquisition, who handles these things and who would know if a release has been requested, and she is off until Wednesday. I'll check with her then and let you know.

Dennis

Bill Wiseman - Re: 2008-0505-A

From: Bill Wiseman
To: Kelly, Caleb
Subject: Re: 2008-0505-A

Will do. If you have revised sketch drawings or building elevations for garage please provide these along with your site plan.

Thanks

Bill Wiseman - Re: 2008-0505-A

From: Caleb Kelly <crk3@verizon.net>
To: Bill Wiseman <wwiseman@baltimorecountymd.gov>
Date: 11/07/08 8:48 AM
Subject: Re: 2008-0505-A

Nov. 8, 2008

Dear Mr. Wiseman,

I would like you to keep my case open until May 30, 2009 to give me time to redesign a garage that would not encroach on any Baltimore County easements. I will still require the variance for the addition, but you may decide on that after reviewing my new plan.

Thank you,

Caleb R. Kelly, III

P.S. A hard copy of this letter is being mailed to you.

On 11/6/08 12:18 PM, "Bill Wiseman" <wwiseman@baltimorecountymd.gov> wrote:

For your information.

William J. Wiseman, III
Zoning Commissioner
Jefferson Building, Suite 103
105 West Chesapeake Avenue
Towson MD 21204

Ph: 410-887-3868 Fax: 410-887-3468
wwiseman@baltimorecountymd.gov

>>> Dennis Kennedy 11/06/08 11:24 AM >>>

Bill:

I checked with Lois Bergman today and she said that the Kelly's have not applied to release the drainage and utility easement, so I recommend that you deny the variance request and close the file.

Dennis Kennedy

>>> Bill Wiseman 11/3/2008 3:32 PM >>>

Thanks Dennis-

As I told Carol, I won't get this off my desk and I don't think Bruce Doak is helping Kelly with this problem. I can deny his request or approve the variance subject to obtaining the release. I'll await your advice. With the Grace Fellowship Church going in next to his property he has a lot more to worry about than building a garage!

Bill

>>> Dennis Kennedy 11/03/08 3:21 PM >>>

Bill:

I have not seen an easement release request for this yet. I went to talk to Lois Bergman in Land

Acquisition, who handles these things and who would know if a release has been requested, and she is off until Wednesday. I'll check with her then and let you know.
Dennis

CALEB R. KELLY, III
703 B WEST PADONIA ROAD
COCKEYSVILLE, MARYLAND 21030



William J. Wiseman, III
Zoning Commissioner
Jefferson Building, Suite 103
105 West Chesapeake Avenue
Towson MD 21204

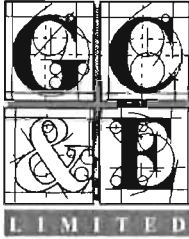
Nov. 8, 2008

Dear Mr. Wiseman,
I would like you to keep my case open until May 30, 2009 to give me time to redesign a garage that would not encroach on any Baltimore County easements. I will still require the variance for the addition, but you may decide on that after reviewing my new plan.

Sincerely,

Caleb R. Kelly, III

A handwritten signature in black ink that reads "Caleb R. Kelly, III". The signature is written in a cursive style with a large, sweeping flourish at the end.



Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, MD 21286

Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

RECEIVED

MAR 24 2009

ZONING COMMISSIONER

TRANSMITTAL SHEET

TO: Bill Wiseman	FROM: Bruce E. Doak
COMPANY: Zoning Commissioner	DATE: 3/24/09
RE: Case 2008-0505-A Kelly	TOTAL NO. OF PAGES INCLUDING COVER:
FAX NUMBER:	PHONE NUMBER:

WE ARE TRANSMITTING:

- ATTACHED
 VIA MAIL
 VIA MESSENGER
 UNDER SEPARATE COVER
 FOR REVIEW
 PRINTS
 VIA FAX
 PROPOSAL
 DESCRIPTIONS
 LOCATION DRAWING
 PLEASE COMMENT
 PLEASE REPLY
 F.Y.I.

QTY	DATE	ITEM	DESCRIPTION
1	3/24/09	original	Amended Zoning Plat (petitioner's exhibit #1)
1		print	Amended Zoning Plat (petitioner's exhibit #1)

NOTES/COMMENTS:

Bill,

Please find enclosed an amended zoning plat that shows the change in the footprint of the proposed garage. We have lessened our request from a setback of 2' to one of 10'. Please allow us to exchange the plan and amend our request to satisfy Dennis Kennedy's requirement not to disturb the drainage and utility easement. Call me if you have any questions.

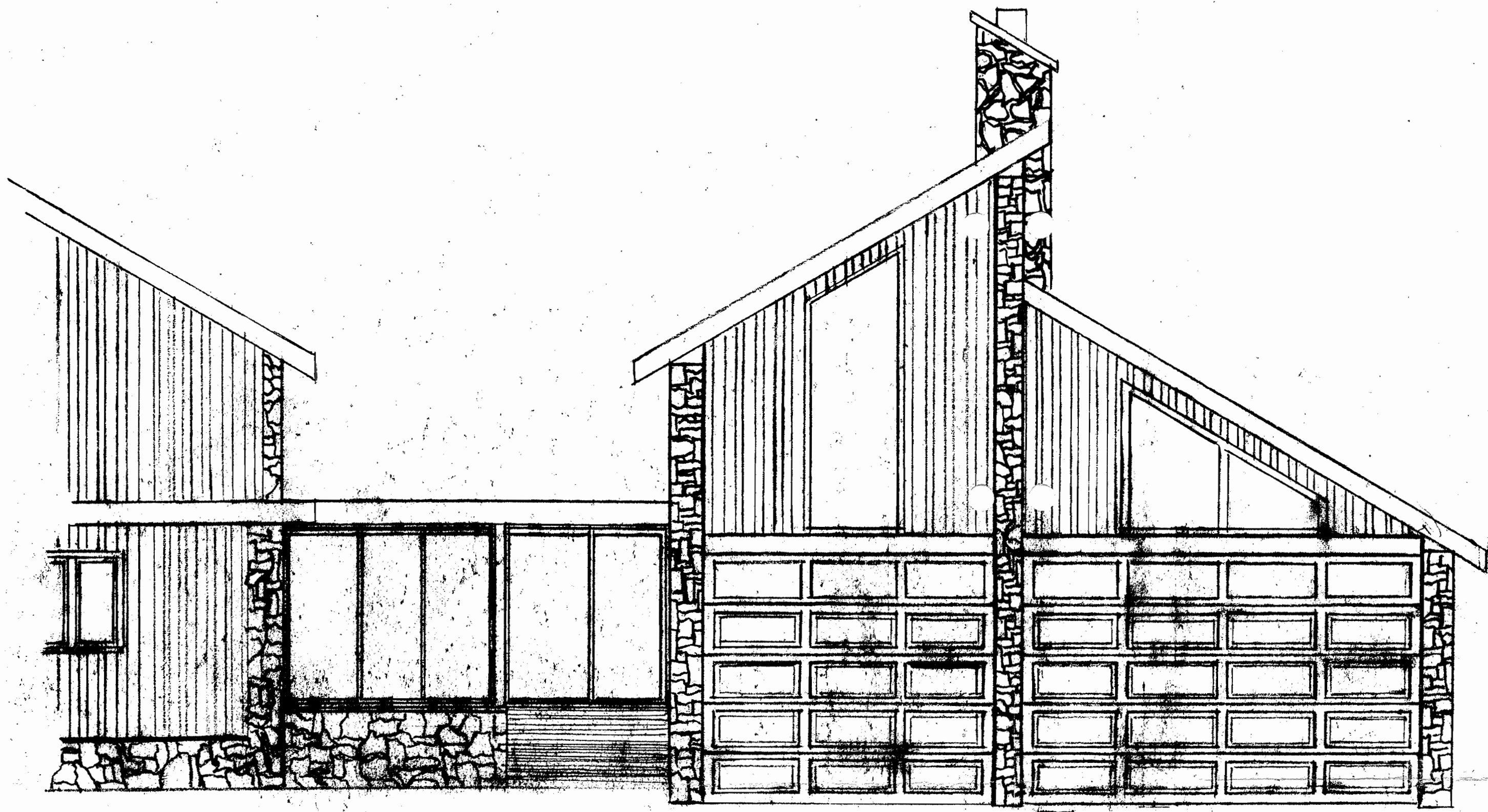
Case No.: 2008-0505-A 703 B W. PADONIA RD

Exhibit Sheet

Petitioner/Developer

Protestant

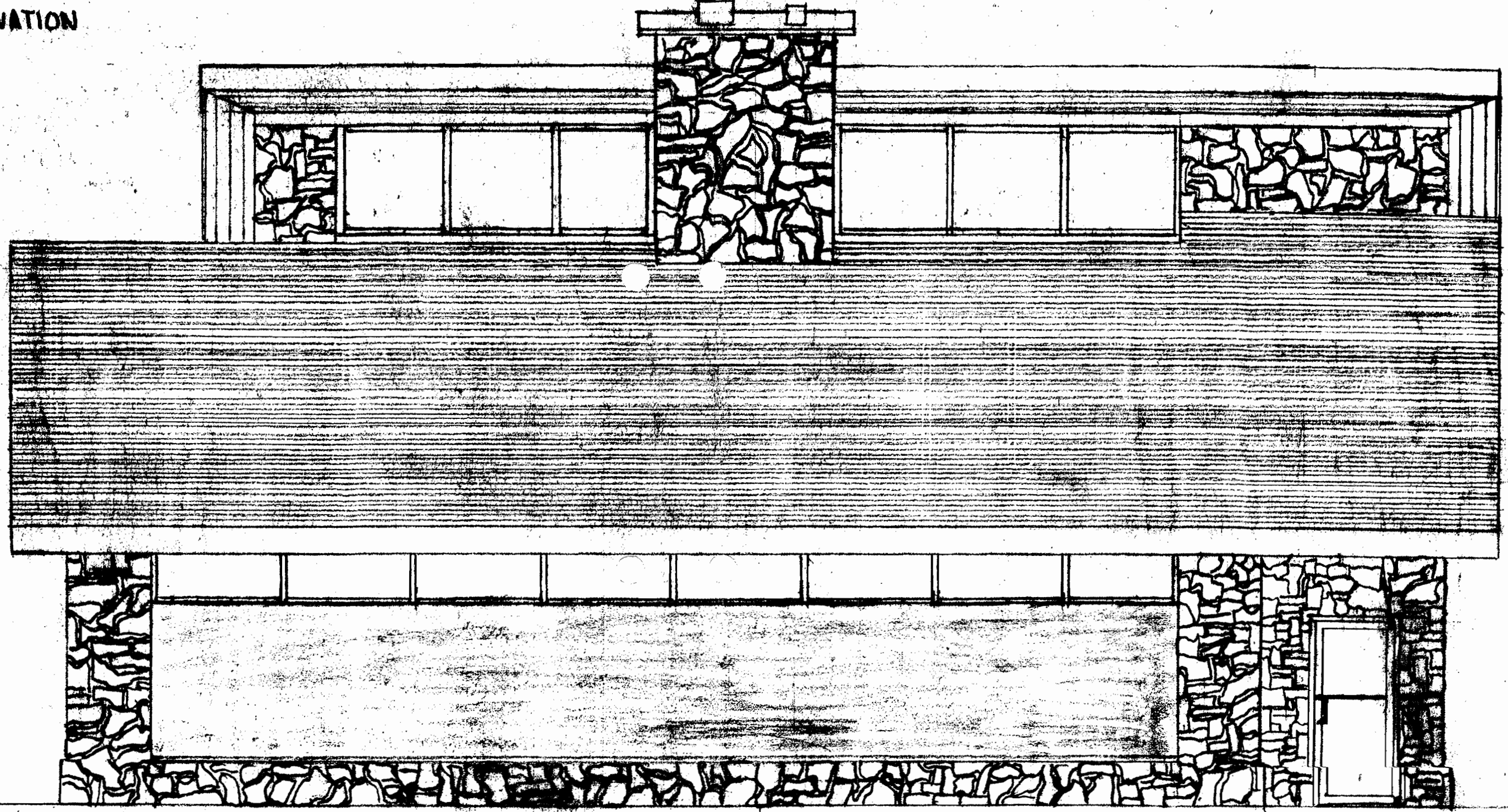
No. 1	Petitioner/Developer	Protestant
No. 2	SITE PLAN	
No. 3	Bldg Elevations	
No. 4	Aerial Overlay	
No. 5	AMENDED RED LINE SITE PLAN	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



EAST ELEVATION

CALEB R KELLY III
1703 B WEST PADONIA RD.
COCKEYVILLE MD 21030

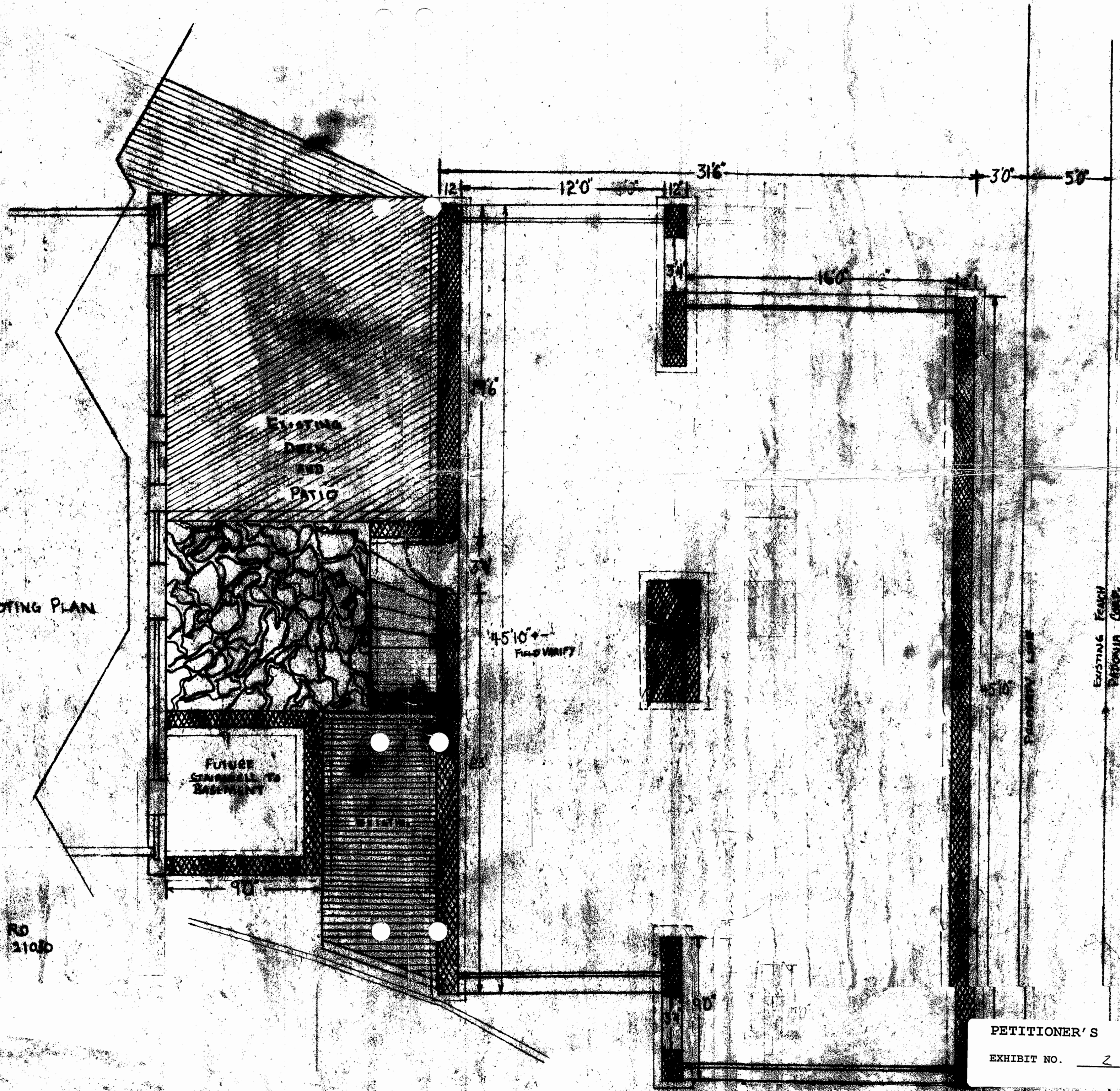
PROPOSED GARAGE



SOUTH ELEVATION

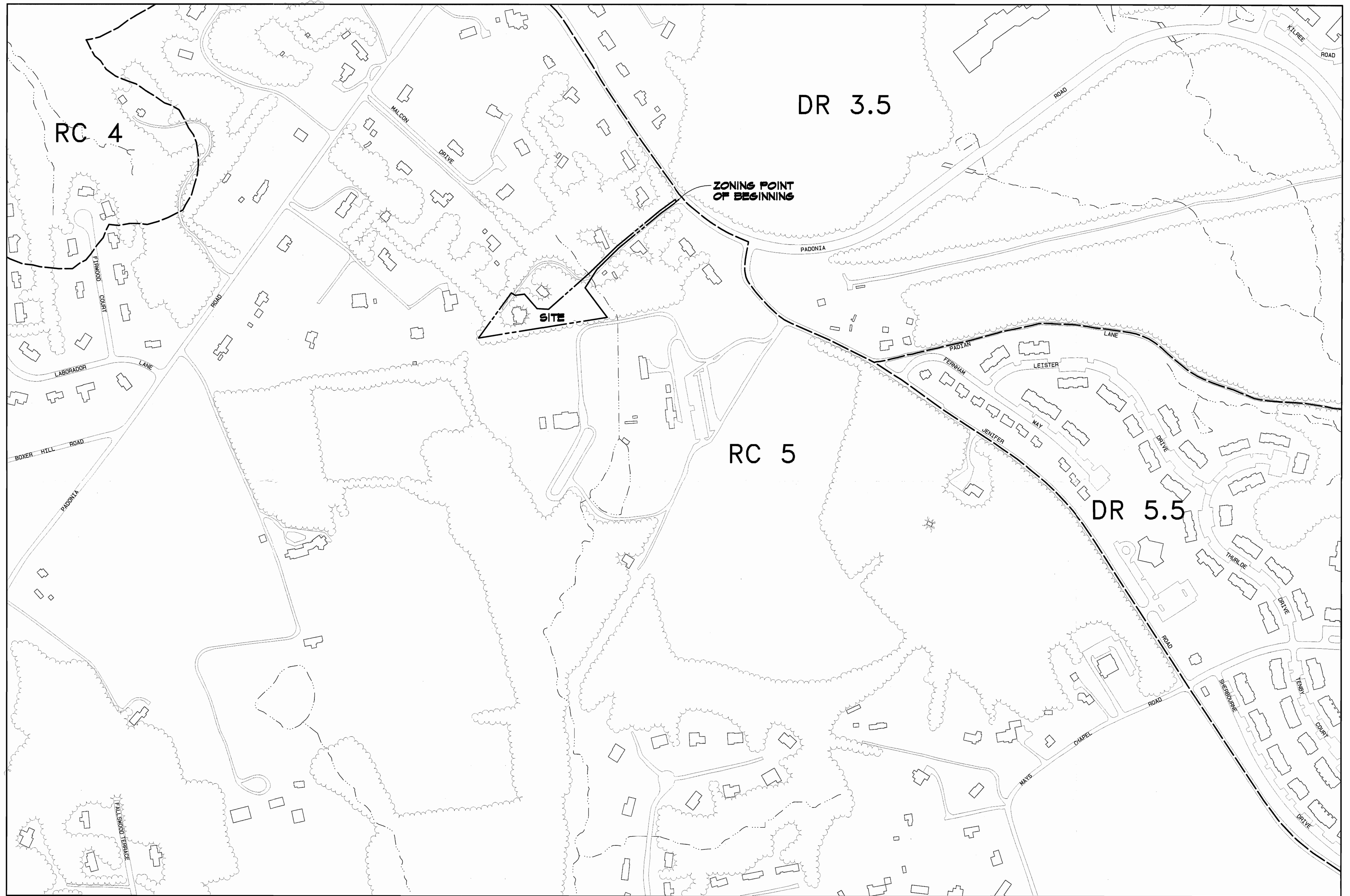
PROPOSED GARAGE
FOUNDATION AND FOOTING PLAN

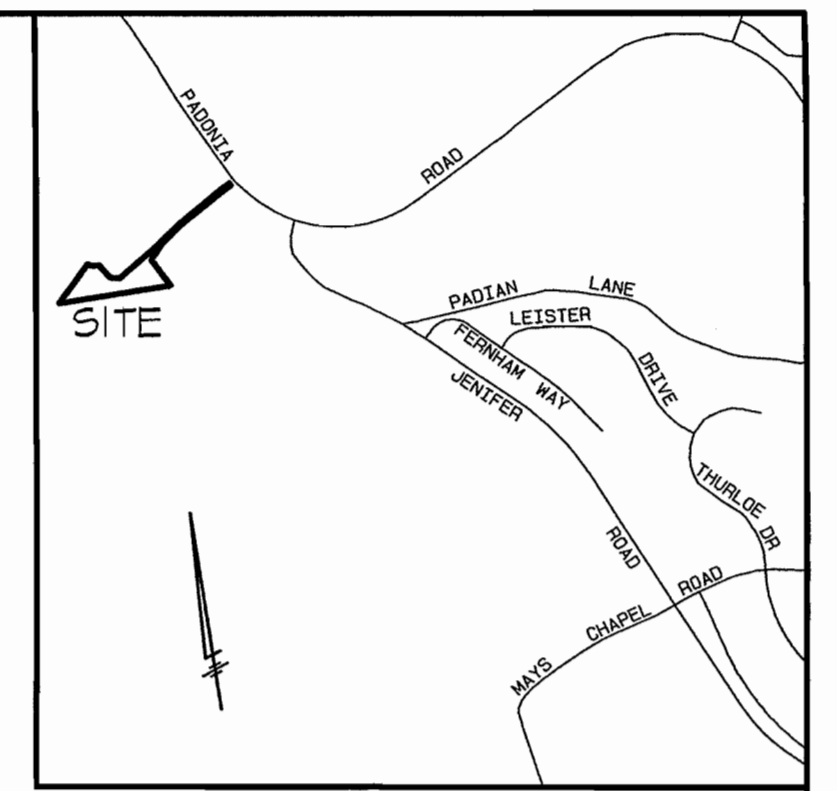
CALEB R. KELLY JR.
703 E. WEST PADONIA RD
COCKEYSVILLE MD 21030



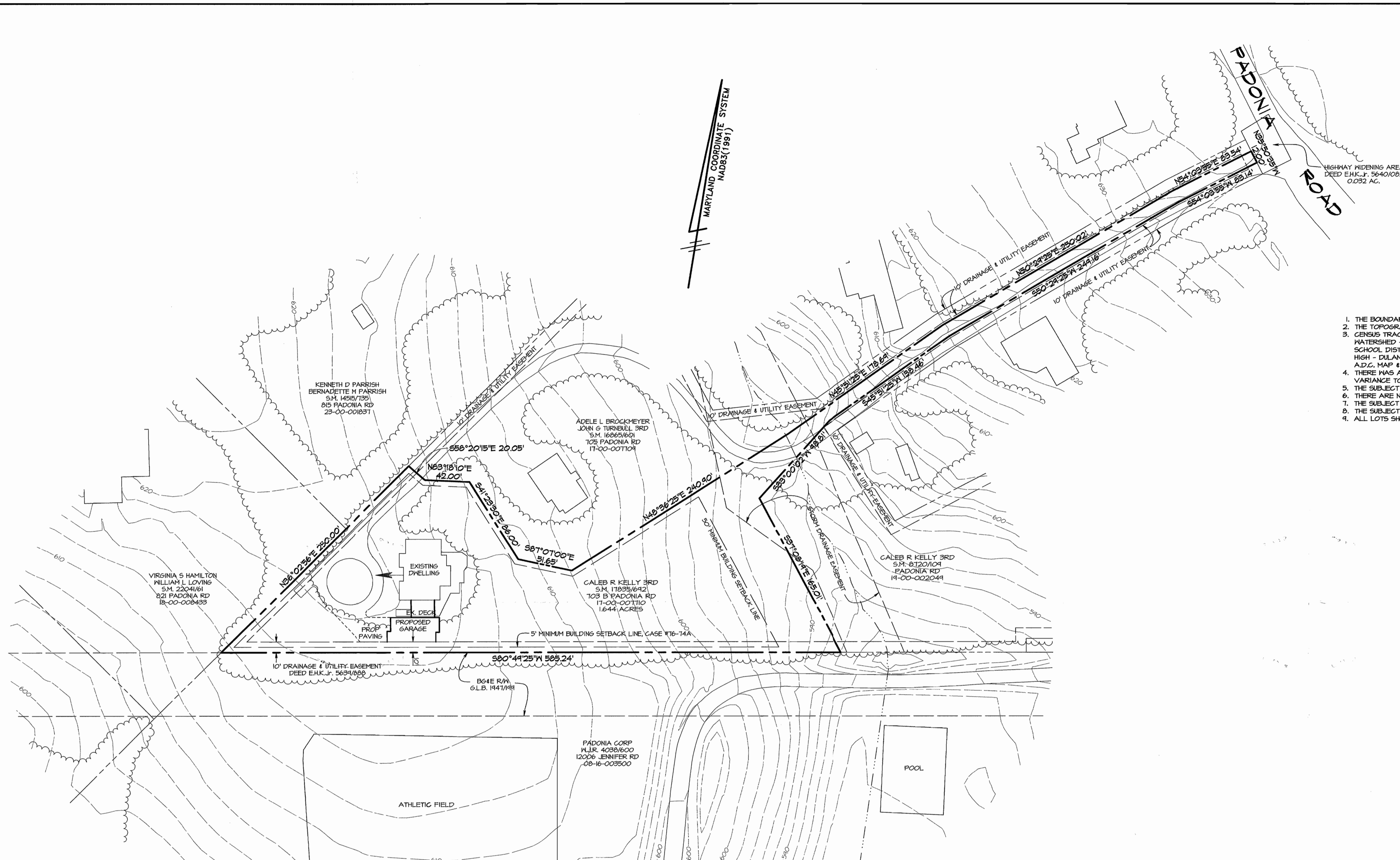
PETITIONER'S

EXHIBIT NO. 2





VICINITY MAP
1" = 2000'

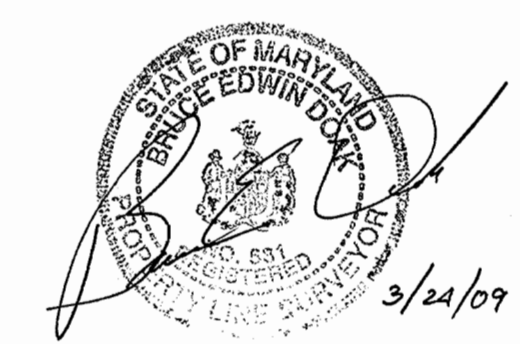


GENERAL NOTES

1. THE BOUNDARY SHOWN HEREON IS FROM A BOUNDARY SURVEY BY GERHOLD, CROSS, & ETZEL, LTD.
2. THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY GIS TILE 051A3
3. CENSUS TRACT - 40B302; REGIONAL PLANNING DISTRICT - 301
WATERSHED - JONES FALLS; SUBDIVISION - 61 N
SCHOOL DISTRICT: ELEMENTARY - PINEWOOD ES; MIDDLE - RIDGELY M.S.;
HIGH - DULANEY H.S.
A.D.C. MAP # GRID 18-D4
4. THERE WAS A PRIOR ZONING CASE ON THE SUBJECT PROPERTY. CASE #16-14A GRANTED A VARIANCE TO PERMIT A SIDE YARD SETBACK OF 5' IN LIEU OF THE REQUIRED 50'
5. THE SUBJECT PROPERTY IS NEITHER HISTORIC NOR WITHIN A HISTORIC DISTRICT.
6. THERE ARE NO KNOWN UNDERGROUND FUEL STORAGE TANKS ON THE SUBJECT PROPERTY.
7. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
8. THE SUBJECT PROPERTY IS NOT WITHIN A 100 YEAR FLOOD PLAIN.
9. ALL LOTS SHOWN HEREON ARE TO BE SERVED BY PUBLIC WATER AND SEWER SYSTEMS.

OWNER/DEVELOPER
CALEB R. KELLY III
703 B PADONIA ROAD
COCKEYSVILLE, MD 21030

08-505 A
PLAN TO ACCOMPANY A VARIANCE REQUEST
KELLY PROPERTY
703 B PADONIA ROAD
Deed Ref: S.M. No. 17835 folio 692
Tax Account No.: 17-00-00710
Zoned RC-5; GIS Tile 051A3
Tax Map 51; Grid 19; Parcel 544
8th ELECTION DISTRICT
2nd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

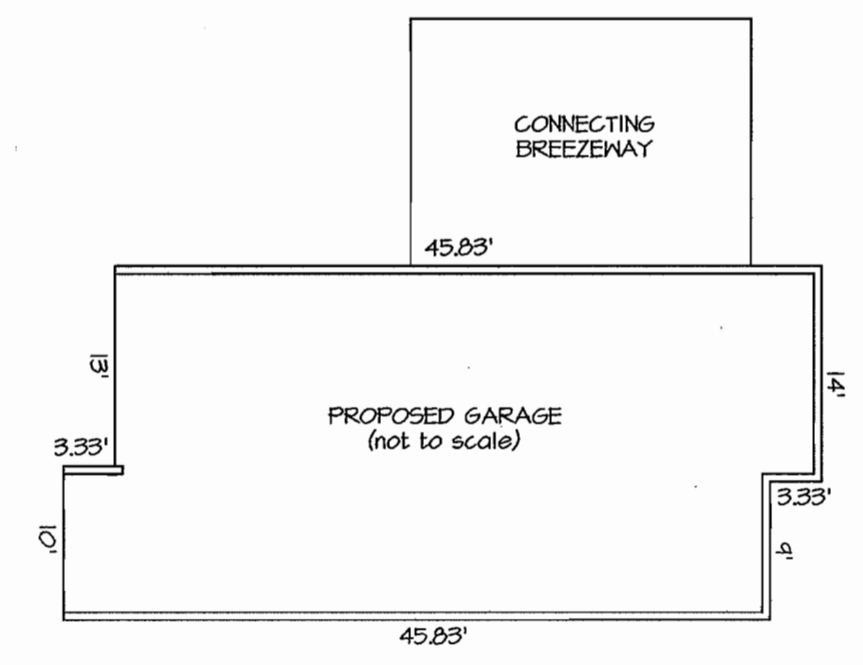


Scale: 1"=50' Date: APRIL 18, 2008

GERHOLD, CROSS & ETZEL, LTD.
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Towsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

LEGEND

- PROPOSED DWELLING
- EXISTING BUILDING
- SOIL LINE
- WOODS LINE
- EXISTING PAVING
- PROPERTY LINE
- CONTOURS

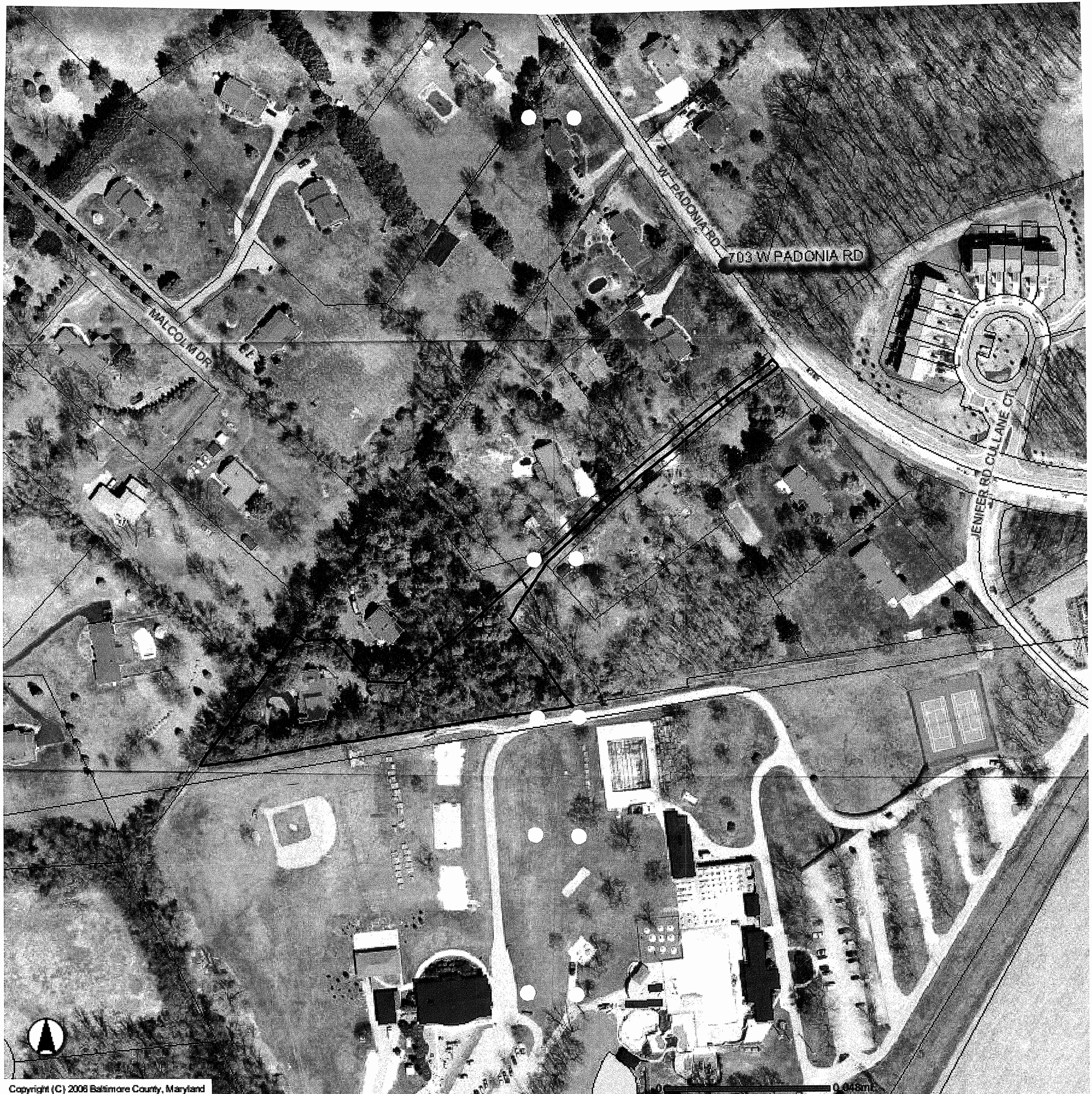


VARIANCE REQUESTED

FOR A SIDE YARD SETBACK OF 10 FEET IN LIEU OF THE REQUIRED 50 FEET PER SECTION 1A04.3.B.2.b OF THE B.C.Z.R.

AMEND THE VARIANCE REQUESTED - 10 FOOT SETBACK IN LIEU OF THE REQUIRED 50 FEET AND CHANGED THE SIZE OF THE PROPOSED GARAGE SHOWN IN RED	3/24/09
REVISION	DATE

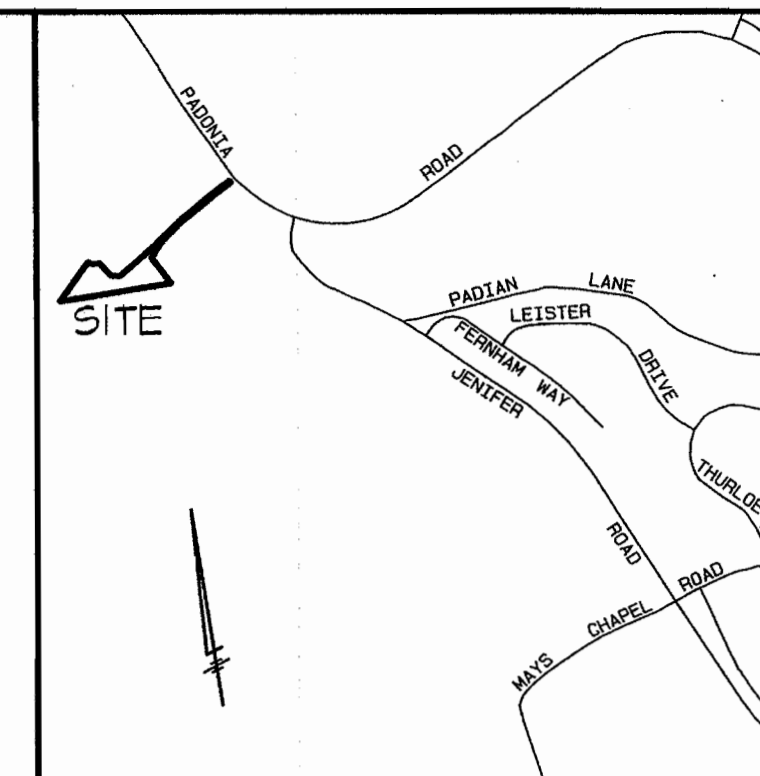
COMPUTED:	DRAWN: SMH	CHECKED:	PETITIONER'S
-----------	------------	----------	--------------



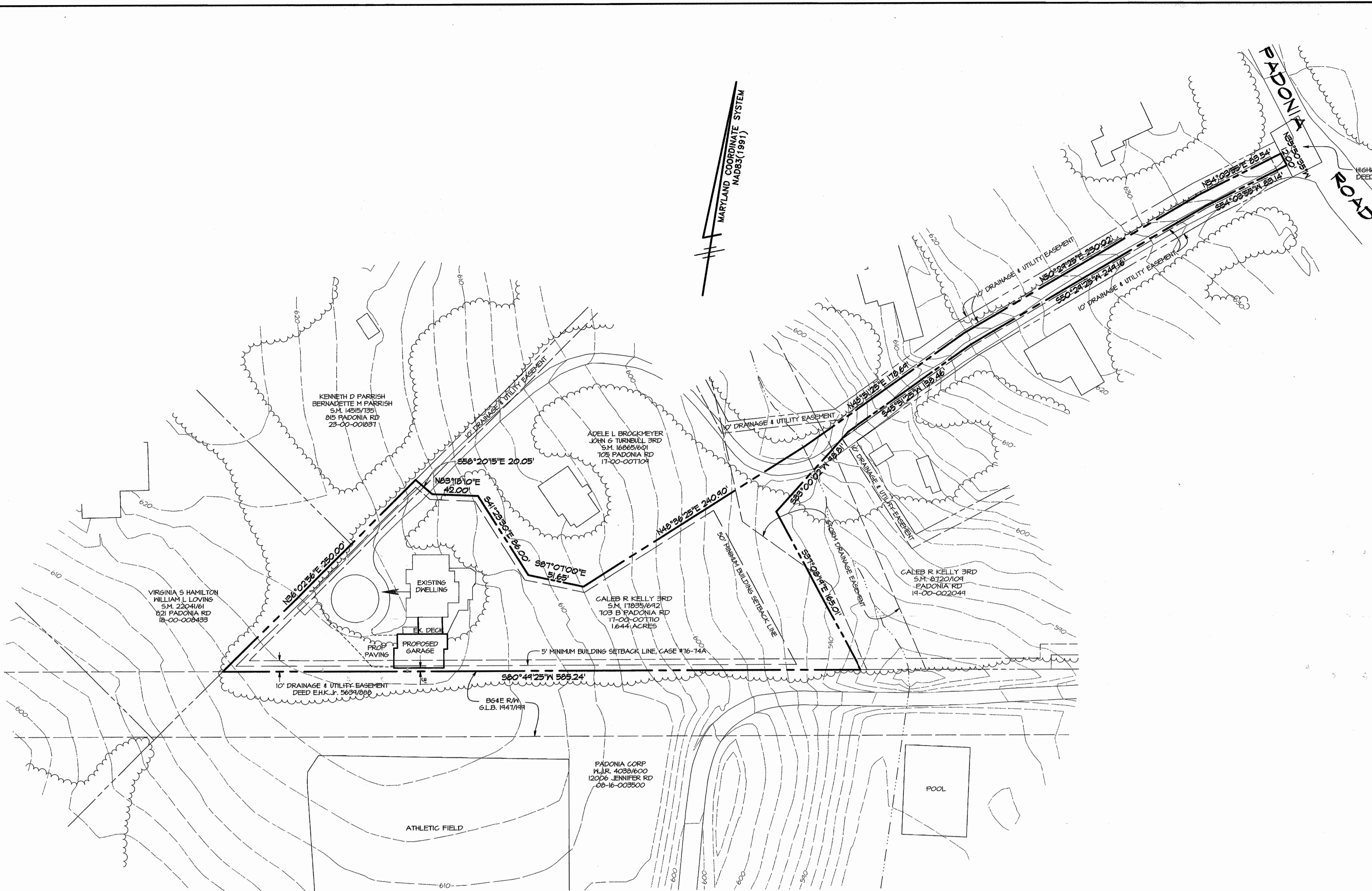
Copyright (C) 2006 Baltimore County, Maryland

PETITIONER'S

EXHIBIT NO. 3



VICINITY MAP
1" = 2000'



GENERAL NOTES

1. THE BOUNDARY SHOWN HEREON IS FROM A BOUNDARY SURVEY BY GERHOLD, CROSS, & ETZEL, LTD.
2. THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY GIS TILE 051A3
3. CENSUS TRACT - 408302; REGIONAL PLANNING DISTRICT - 301
WATERSHED - JONES FALLS; SUBWATERSHED - 61 N
SCHOOL DISTRICT: ELEMENTARY - PINWOOD E.S.; MIDDLE - RIDGELY M.S.;
HIGH - DULANEY H.S.
ALD. MAP & GRID 18-09
4. THERE WAS A PRIOR ZONING CASE ON THE SUBJECT PROPERTY. CASE #16-14A GRANTED A VARIANCE TO PERMIT A SIDE YARD SETBACK OF 5' IN LIEU OF THE REQUIRED 50'
5. THE SUBJECT PROPERTY IS NEITHER HISTORIC NOR WITHIN A HISTORIC DISTRICT.
6. THERE ARE NO KNOWN UNDERGROUND FUEL STORAGE TANKS ON THE SUBJECT PROPERTY.
7. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
8. THE SUBJECT PROPERTY IS NOT WITHIN A 100 YEAR FLOOD PLAIN.
9. ALL LOTS SHOWN HEREON ARE TO BE SERVED BY PUBLIC WATER AND SEWER SYSTEMS.

OWNER/DEVELOPER
CALEB R. KELLY III
103 B PADONIA ROAD
COCKEYSVILLE, MD 21030

**PLAN TO ACCOMPANY A VARIANCE REQUEST
KELLY PROPERTY**
103 B PADONIA ROAD
Deed Ref: S.M. No. 17035 folio 692
Tax Account No.: 17-00-007710
Zoned RC-5; GIS Tile 051A3
Tax Map 51; Grid 19; Parcel 544
8th ELECTION DISTRICT
2nd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND



Scale: 1"=50' Date: APRIL 18, 2008

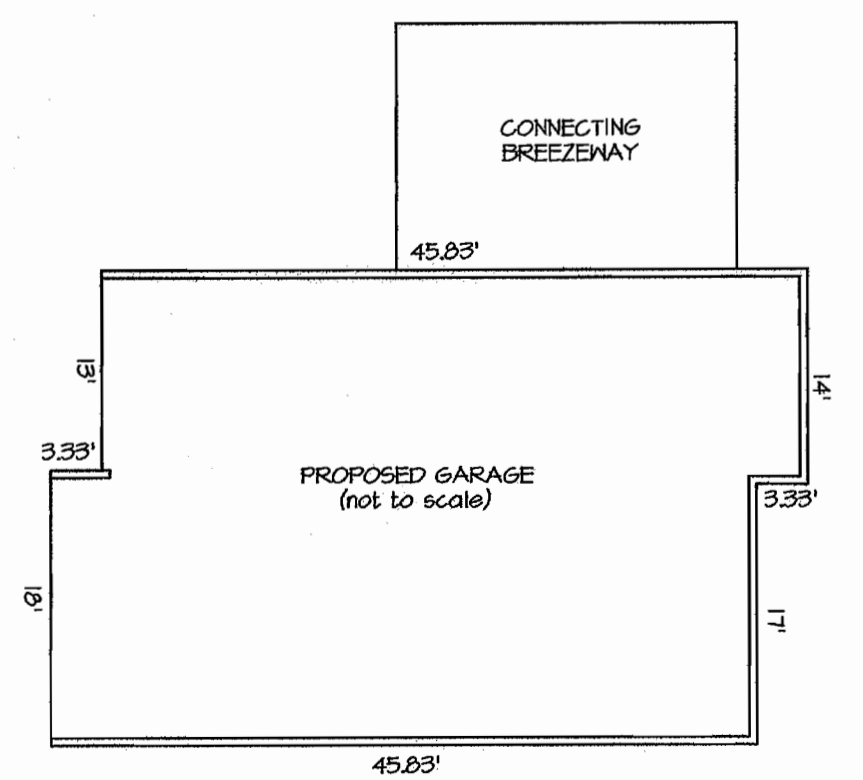
GERHOLD, CROSS & ETZEL, LTD.
REGISTERED PROFESSIONAL LAND SURVEYORS

Suite 100
320 East Townsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

PETITIONER'S
EXHIBIT NO. 1

LEGEND

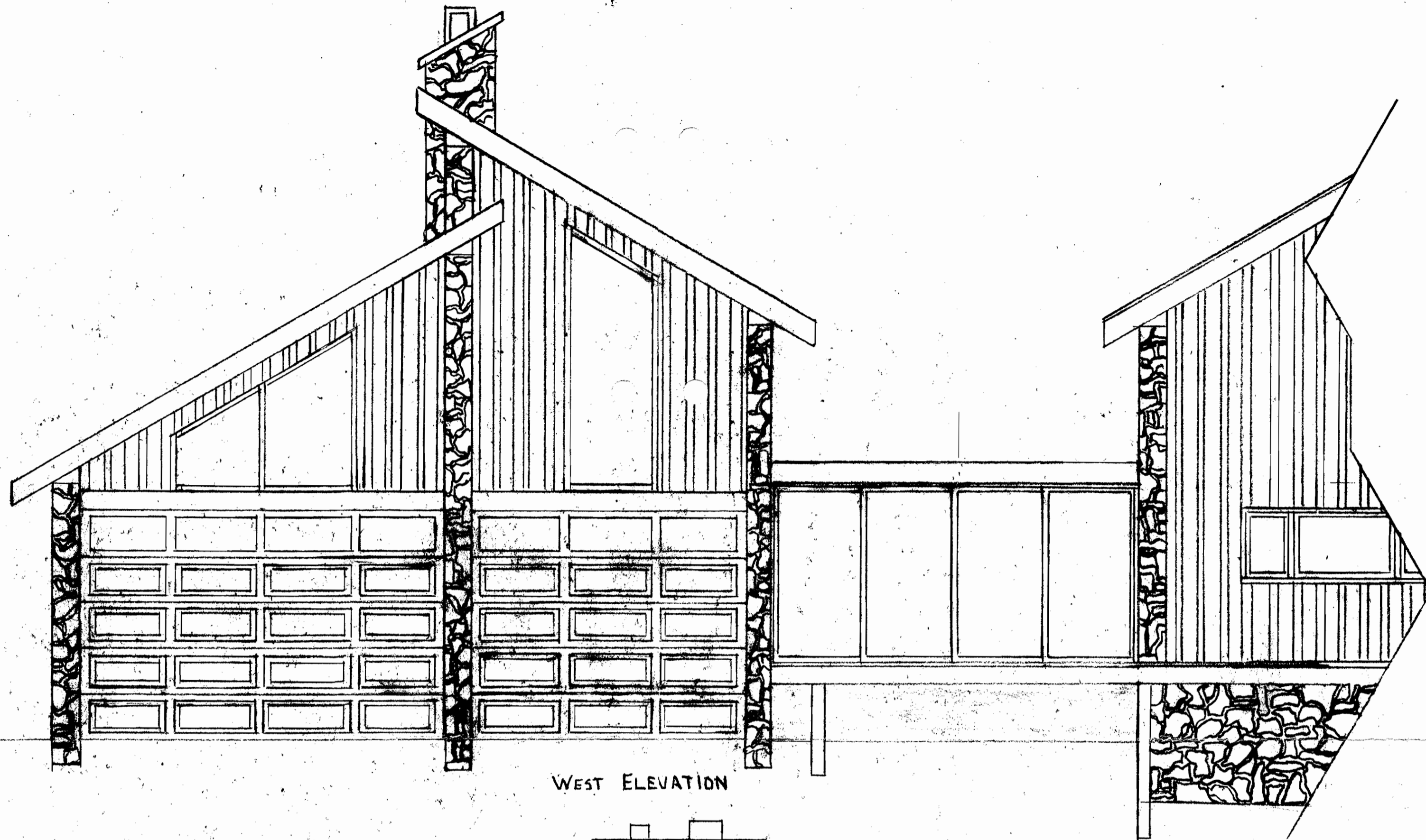
- PROPOSED DWELLING
- EXISTING BUILDING
- SOIL LINE
- WOODS LINE
- EXISTING PAVING
- PROPERTY LINE
- CONTOURS



VARIANCE REQUESTED

FOR A SIDE YARD SETBACK OF 2 FEET IN LIEU OF THE REQUIRED 50 FEET PER SECTION 1A04.3.B.2.b OF THE B.C.Z.R.

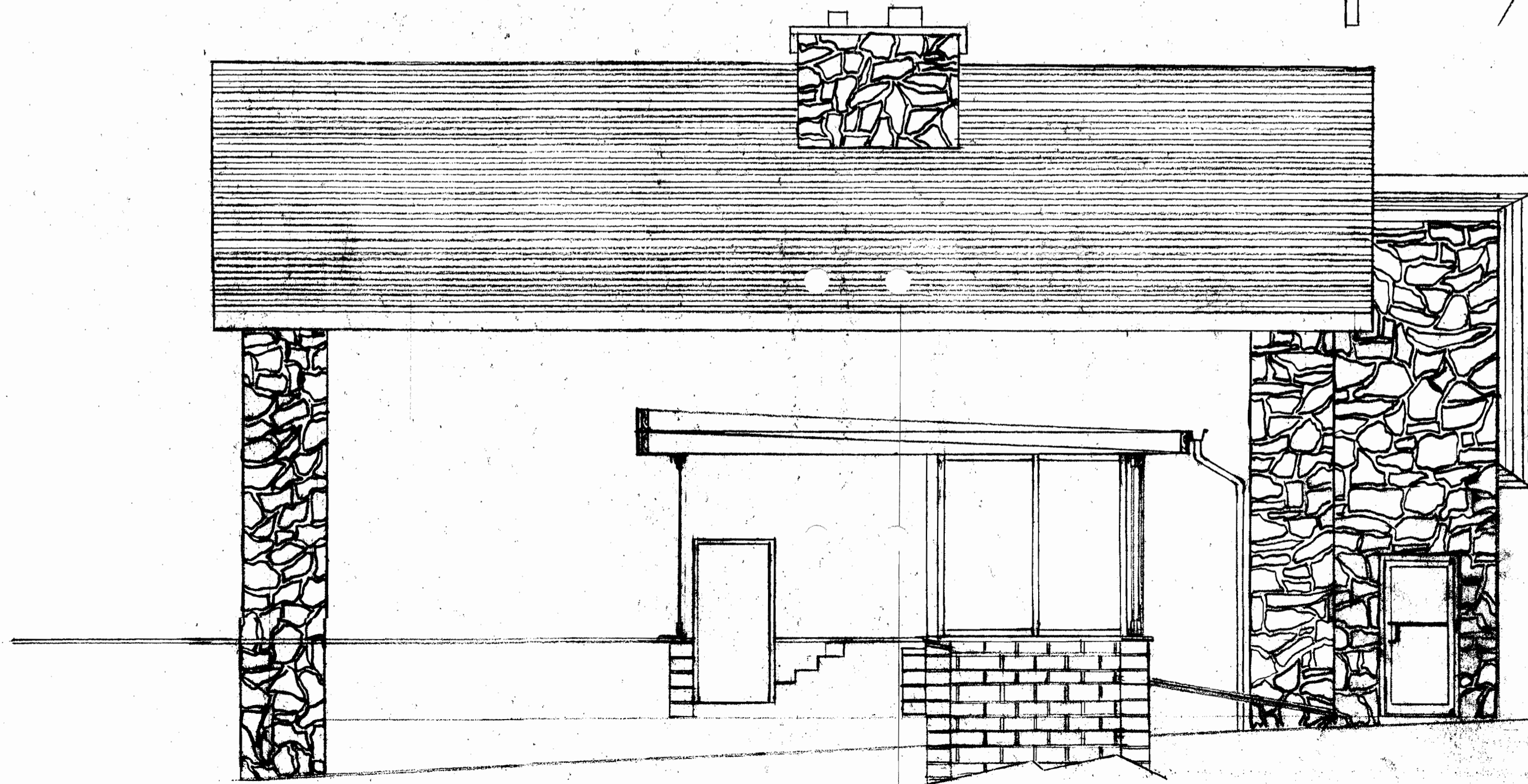
REVISION	DATE	COMPUTED	DRAWN: SMH	CHECKED:



WEST ELEVATION

CALEB R KELLY III
703 B. WEST PADONIA RD.
COCKEYSVILLE MD 21030

PROSED GARAGE



NORTH ELEVATION