

11/20/09

IN THE MATTER OF:

ROBERT AND KAREN LANGE
LEGAL OWNERS/PETITIONERS
N/S GLENCOE ROAD AT
INTERSECTION WITH SHERMANTINE
LANE (1718 Glencoe Road)

10th Election District
3rd Councilmanic District

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* Case No. 08-528-A
*

* * * * *

OPINION

This matter comes before the Board of Appeals as appeal from the Zoning Commissioner's decision dated August 1, 2008, in which the Petition for Variance pursuant to Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) was granted thereby allowing the Langes to use as an accessory structure a proposed recreational/clubhouse as shown and identified as a "Barn" on the plans submitted with the application for the variance. The proposed accessory structure would consist of a building to be located in the front yard of the Langes. The building would have a height of 25' feet in lieu of the 15' permitted under the applicable zoning regulations. The Zoning Commissioner granted the variance subject to the following exceptions:

1. The Petitioners may apply for their permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason this Order is reversed, the Petitioners would be required to return, and be responsible for returning said property to its original condition.
2. The recreational/clubhouse structure shown as a Barn on Petitioners' Exhibit 1 shall be limited to uses accessory to the residential use of the property. It shall not be used for commercial or business purposes. Moreover, the Petitioners' shall not allow or cause the barn to be

converted to a second dwelling unit and/or apartments. There shall be no living quarters contained therein.

3. There shall be no use of high intensity or intrusive lighting (other than low intensity security types) located on the northern side of the accessory structure and outdoor shower that would penetrate and interfere with W. Craig Kenny's home and yard area.
4. Within ninety (90) days of the date hereof, the Petitioners shall record in the Land Records of Baltimore County a covenant to the deed for their property (in the form attached) restricting the use of the kitchen in the recreational/clubhouse to Mr. and Mrs. Lange and no others. Said covenants shall contain the provision that such use shall terminate at such time as the Langes no longer reside on the property, or the subject property is sold, and no future purchaser shall maintain a kitchen stove or heating unit within the accessory structure without a subsequent special hearing. A copy of the recorded covenant shall be submitted to the Department of Permits and Development Planning (DPRM) for inclusion in the case file.
5. The Petitioners' shall permit a representative of the Code Enforcement Division of the Department of Permits and Development Management (DPRM) reasonable access to the recreational/clubhouse on the subject property to insure compliance with this Order.
6. When applying for any permits, the site plan must reference this case and set forth and address the restrictions in this Order.

NOTE: For the purposes of this Opinion a copy of the exemplar of the above referenced Covenant is not reproduced herein.

PARTIES

The Petitioners were represented by Howard Alderman, Jr., Esquire of the firm of Levin and Gann. The office of the People's Counsel entered its appearance but chose not to participate in the hearing. The Protestant W. Craig Kenney was represented by Michael P. Tanczyn, Esquire.

STANDING

As noted supra the Office of People's Counsel chose not to participate in the hearing of this matter before the Board of Appeals. After the hearing of this case People's Counsel

submitted a memorandum of law to the Board requesting, inter alia, that the Office of the People's Counsel be allowed to brief the Board as to the law and facts of the case. The Protestant urged that the Board not entertain the arguments of People's Counsel because it did not participate in the hearing before the Board. The Office of People's Counsel prior to the hearing in the instant matter submitted a letter to the Board of Appeals and counsel for the parties to the appeal indicating that it would not participate in the hearing on the merits but reserved the right to file a post hearing memoranda. People's Counsel in its memoranda dated April 24, 2009 cited Section 524.1 (a) of the Baltimore County Charter, which authorizes the appearance of People's Counsel as a party to hearings before the Board. As argument People's Counsel urges that the proper interpretation of this rule should be that that it imposes no requirement of the physical presence of People's Counsel at a hearing before the Board but is, rather permissive, thereby granting the option of appearance. The Board determined that it would be appropriate to entertain People's Counsel's arguments at this stage of the proceedings based on its notification to the Board via an entry of appearance filed on June 2, 2008. Therefore, the arguments raised in the aforesaid memoranda will be addressed in this opinion.

ISSUES

Is the subject property entitled to a "variance" as defined in the Baltimore County Zoning Regulations (B.C.Z.R.)?

The testimony and evidence presented at the hearing of this matter surrounded the question of the appropriateness of the issuance of a variance for the proposed construction of an accessory structure to be located in the front yard of the Appellants' property. The proposed structure while designated as a "barn" on the site plan submitted by the Appellants was, in fact, a

recreational use building with a proposed height of twenty-five (25) feet in lieu of the fifteen (15) foot limitation contained in the zoning regulations.

TESTIMONY

The Petitioners called Mr. Bruce E. Doak, a professional land surveyor, who was accepted by the Board as an expert in issues relating to property surveying and the Baltimore County Zoning Regulations. Mr. Doak testified the Petitioners purchased the subject property in 1999. At the time of the purchase, the subject property was an irregularly shaped parcel of land approximately 11 acres in size. The property is zoned RC2.

The proposed "barn"/ accessory building would have dimensions of: 66 feet wide; 23 feet deep with an 8 foot deep bump out in the rear; and 25 feet in height. Mr. Doak testified that based on his understanding from the Petitioners and their architect, the building was being designed with a height of 25 feet so that it could be converted in the future to a barn for agricultural use. Mr. Doke testified that, in his opinion, the Petitioners' could have constructed an agricultural barn without regard its height pursuant to the applicable zoning under Baltimore County Zoning Regulation (BCZR) Section 300.1. He noted that since the Petitioners' initial planned use of the proposed structure were for a recreational area for their children with space for equipment and other storage, the necessary variance relief was sought.

Mr. Doak identified the layout of the property as follows:

1. The subject property was created as Lot 1, shown on the subdivision plat for the Milton J. Firey, III, property, recorded among the Plat Records of Baltimore County in Plat Book No. 48 at page 97 (the "Plat")
2. Approximately 0.86 acres of the subject property was dedicated to Baltimore County as a highway widening area for Baltimore County;
3. There is a revertible slope easement on the subject property adjacent to a proposed highway widening area;
4. The subject property has a meandering driveway connecting to Glencoe Road, north of the intersection of Glencoe Road and Shermantine Lane;

5. The rear yard has an in-ground pool and septic reserve area both of which pre-existed the Petitioners' ownership.
6. The area behind the Petitioners' has a 25% or greater slope.

The proposed accessory structure as described by Mr. Doak would consist of: two fireplaces; a wood stove; kitchen; bath; outdoor shower; and a tractor shed with dimensions of 11.5' x 21.5'.

Mr. Doak testified that the proposed accessory structure would be constructed in the front of the Petitioners' property rather than, as is normally the case with accessory structures, the rear of the property. This location was necessary according to Mr. Doak because the rear of the property could not accommodate such a structure given its physical characteristics and the pre-existing in-ground pool and septic reserve area.

Mr. Doak was cross-examined by the Protestant as to the height of the proposed accessory structure. Mr. Doak explained that the variance request to allow a 25' foot tall structure was derived from the Petitioners' desire to have a structure, which could be converted into a barn/farm building at some point in the future.

The Petitioner, Karen Lange testified she and her husband purchased the property in 1999 with the pool and septic reserve area then in place. She advised that the purpose for the proposed accessory structure was to provide a recreational area for her three children and to provide limited storage space for family items. She testified that there would be no bedrooms in the proposed accessory structure and that it would not be used for commercial or business purposes. Mrs. Lange testified that she sought the variance from the height restriction for the building to allow her the flexibility to convert it into a barn in the future should she so desire. She indicated

that she believed that it would pose an economic hardship for she and her husband if they had to convert the 15' accessory structure into a 25' barn in the future.

The Protestant, W. Craig Kenney, testified that he is a neighbor of the Petitioner's and owns a 20-acre lot identified as 1716 Glencoe Road. Mr. Kenney testified that his objection to the requested variance relief is based on his belief that the proposed structure is not intended to be used for any agricultural purpose and that the entire adjacent area including his property and that of the Petitioners' are zoned RC2 (agricultural) which was intended to promote and protect agricultural uses. He acknowledged that residences were permitted in the RC2 zone, but indicated his belief that the proposed accessory structure would be a second residential structure considering the size of the structure and the amenities to be contained therein.

People's Counsel in its brief submitted after the hearing argued that the variance should not be granted because, inter alia, the proposed structure would effectively be another residence. People's Counsel contends that the proposed accessory building will not exist to support any lawful use of the subject house, but will instead be another complete residence.

CONCLUSION

The variance request in this case involves two variances. The first variance request is to allow the construction of the accessory structure/barn in the front of the Petitioners' house. The second variance is to allow the proposed accessory structure to exceed the 15' height restriction place on such building under the Baltimore County Zoning Regulations.

The law regarding variance requests in Baltimore County is well settled. Section 307 of the Baltimore County Zoning Regulations states, in pertinent part, as follows:

...(T)he County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations... only in cases where special circumstances or conditions exist that are peculiar to the

land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship.... Furthermore, and such variance shall be granted only if in strict harmony with the spirit and intent of said height, area... regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare....

The Board is guided by the Court of Special Appeals case known as *Cromwell v. Ward*, 102 Md.App.691 (1995), wherein the Court wrote:

...The Baltimore County ordinance requires "conditions...peculiar to the land...and practical difficulty..." Both must exist. ...However, as is clear from the language of the Baltimore County ordinance, the initial factor that must be established before the practical difficulties, if any, are addressed, is the abnormal impact the ordinance has on a specific piece of property because of the peculiarity and uniqueness of that piece of property, not the uniqueness or peculiarity of the practical difficulties alleged to exist. *Id.* At 698.

The Board concludes that the subject property is unique by reason of the shape and topography of the land as described in the testimony of Mr. Doak.

The Board reasons that the location of the in-ground pool and septic reserve area at the rear of Petitioners' house presents practical difficulty in that the testimony discloses that the improvements were in existence at the time of the Petitioners' purchase of the land. Moreover the Board concludes that the foregoing structures do not amount to a self-imposed hardship, which would bar the Petitioners' claim of practical difficulty. Based on the testimony received at the hearing, the Board concludes that the only viable location of the accessory structure would be in the Petitioners' front yard.

The Board concludes that the proposed structure does meet the test under the Baltimore County Zoning Law for an accessory building and is not a separate residence as argued by People's Counsel. An accessory structure is defined in Section 101 of the Baltimore County Zoning Regulations as follows:

ACCESSORY USE OR STRUCTURE

A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served...

The testimony of Mrs. Lange and Mr. Doak indicates that the proposed accessory structure does not include living quarters (i.e. bedrooms), which is an essential requirement for a separate dwelling unit/house. The proposed storage space and recreational area to be contained in the accessory structure are subordinate to the residential use of the Langes' house and appear to serve a legitimate function. A closer question exists as to whether the proposed accessory structure is "customarily incident" to the existing structure in this case. There was no evidence presented at the hearing of the existence in the area/neighborhood of the subject property of any other accessory structures similar to the one proposed by the Langes. For the purposes of this opinion the foregoing test has been interpreted with the broadest use of the term "customarily incident" and is based on the Board's view that because an accessory building is allowable under the zoning regulations covering the subject property said use has been recognized in law as being customary.

The requested variance for the height of the proposed structure was considered by the Board and was determined not to present a practical difficulty to the Petitioners' in that the testimony clearly indicates that the present proposed use of the proposed structure is as an accessory building. The Petitioners' stated desire to have the option in the future to convert the accessory structure from same into a barn does not, in the Board's opinion, meet the test for practical difficulty.

ORDER

THEREFORE, IT IS THIS 20th day of November, 2009 by the
County Board of Appeals of Baltimore County

ORDERED that the Petitioners request for a variance to locate an accessory structure in
the front yard of the subject property is GRANTED; and it is further

ORDERED that the Petitioners' request for a variance from the height restriction for an
accessory structure is hereby DENIED; and it is further

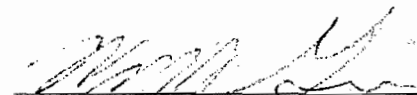
ORDERED that the Board hereby adopts and imposes upon the Petitioners the
restrictions imposed by the Zoning Commissioner in his opinion dated 8/1/2008 with the
exception of restriction No.4.

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*.

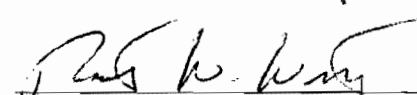
**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence M. Stahl, Panel Chair



Wendell H. Grier



Robert W. Witt



County Board of Appeals of Baltimore County

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November 20, 2009

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Levin & Gann, P.A.
502 Washington Avenue, 8TH Floor
Towson, MD 21204

Michael P. Tanczyn, Esquire
606 Baltimore Avenue, Ste 106
Towson, MD 21204

RE: *In the Matter of: Robert and Karen Lange – Legal Owners/Petitioners*
Case No.: 08-528-A

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,

A handwritten signature in black ink that reads "Theresa Shelton/kc".

Theresa R. Shelton
Administrator

TRS/klc
Enclosure

Duplicate Original Cover letter

c: Robert and Karen Lange
W. Craig Kenney
Bruce Doak
Office of People's Counsel
William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, III, Director/Planning
John E. Beverungen, County Attorney

4/24/09

RE: PETITION FOR VARIANCE
1718 Glencoe Road; N/S Glencoe Road,
380' S Shermanline Lane
10th Election & 3rd Councilmanic Districts
Legal Owner(s): Robert & Karen Lange
Petitioner(s)

RECEIVED

APR 24 2009

**BALTIMORE COUNTY
BOARD OF APPEALS**

* BEFORE THE COUNTY
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* 08-528-A

* * * * *

MEMORANDUM OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S

Preliminary Comments

Our office filed a letter with the County Board of Appeals ("CBA") and sent copies to counsel for Petitioner and Protestants prior to the hearing in this case. In the letter, we entered our appearance as a party in the appeal, identified the legal issues based on the pleadings and the CBA's file, and expressed our concerns with the relief requested. We also advised the CBA and counsel that we would not be attending the hearing but reserved the right to file a post-hearing memorandum. It is our understanding that counsel for Petitioner objects to our participation. It is our position that the letter to the CBA, with copies sent to counsel for petitioner and protestants, entitles us to participate in the appeal.

The Participation of People's Counsel

Our office filed an Entry of Appearance and provided notice of the same to Petitioner's representative on June 2, 2008, following our receipt of the Petition for Variance. The Zoning Commissioner granted the Petition on August 1, 2008. The attorney for a neighbor who opposed the relief filed a timely appeal. Our office entered its appearance in the appeal *via* letter filed with the CBA and copies to attorney for Petitioner and attorney for protesting neighbor. The letter raised concerns regarding legal issues in the case. We did not attend the hearing and explained this in the letter. Prior to the hearing, all parties and the CBA were aware of our office's position regarding the legal interpretation of the applicable zoning regulation. We did not provide, nor attempt

to provide, evidence or testimony from witnesses, but highlighted the legal issues we believe are relevant to the CBA's decision.

It has come to our attention that Counsel for Petitioner, who also did not attend the hearing before the Zoning Commissioner, challenged our office's standing in the appeal. This was not done with a written response to our letter, which stated we would not attend. Nor did Counsel for Petitioner raise this as a preliminary issue at the start of the hearing. Rather, he raised the issue for the first time at the conclusion of the hearing.

Also, it should be noted that prior to the hearing before the CBA, Counsel for Petitioner thought it appropriate and rightfully notified our office of his entry of appearance by sending us a copy of his letter to the CBA. Likewise, again based on our entry of appearance dated June 2, 2008, Counsel for Protestant sent our office a copy of his client's appeal, as did Timothy Kotroco, Director of the Department of Permits and Development Management. Thereafter, the CBA included our office on all notices of hearing dates or other matters pertaining to the appeal hearing before the CBA.

In Part I of this Memorandum we address our standing. Our position is that the letter dated March 16, 2009 is sufficient to establish our participation and standing in a case where we are an additional party on the same side as the appellant. Part 2 provides a few additional remarks on our opposition to the merits of the Petition for Variance to supplement our letter.

Part 1

Standing in a *De Novo* Appeal Before the County Board of Appeals

A. The Charter and Rules of the Board of Appeals

The rules of practice and procedure of the Board of Appeals are found in Appendix H of BCZR. Rule 2 e. requires the CBA to "send formal notice of hearings, continuances and decisions of the board . . . to those persons entitled to receive same . . ." As noted above, our office was given written notice.

Rule 6 provides for appearances and practice before the board of appeals. It states: "Any individual who is a party to a proceeding before the board may appear in his own behalf. . ." [emphasis added]. The use of the term may generally signal an option. As the

Board is well aware, developers who are Petitioners often do not appear in person; engineers and surveyors, through Counsel present their case.

Rule 7 c. pertaining to evidence, requires a five-day notice to the Board and opposing Counsel of a prepared statement to be read at the hearing. Rule 7 specifically excludes letters from this notice requirement. In other words, the Board may accept letters at any time before record closes.

The Baltimore County Charter (Appendix C in BCZR) provides for the Office of People's Counsel, who has the authority to participate in any manner in matters before the Zoning Commissioner, Deputy Zoning Commissioner and Board of Appeals – "He shall appear as a party . . ." [emphasis added]. Baltimore County Charter, Sec. 524.1 (a) (3). There is no requirement to participate in person at the hearing. Moreover, People's Counsel does not testify as a party. He may or may not choose to make an opening statement, he may or may not present witnesses or cross-examine witnesses. In other words, there is no prejudice to the Petitioner if People's Counsel is another party on the same side as the appellant. It is ironic that Petitioner's Counsel would raise this issue in the instant case wherein People's Counsel disclosed in writing the details of his position prior to the hearing. The logical extension is that People's Counsel could attend a hearing, decline to make an opening statement, not offer witnesses or cross-examine witnesses, in which case Petitioner would not know the specifics of People's Counsel's position until closing argument or until his memorandum is filed simultaneously with Petitioner's. Petitioner's position on People's Counsel's standing is not only fallacious but also irrational.

B. The Appellate Decisions

The Court of Appeals has on many occasions explained "the liberal standards under Maryland law for party status at an administrative hearing," and that anyone expressing an interest has the right to be a party. Dorsey v. Bethel A.M.E. Church 375 Md. 59, 72-73 (2003). Quoting from Sugarloaf Citizens v. MDE 344 Md. 271, 286-87 (1996), the Court repeated,

“The requirements for administrative standing under Maryland law are not very strict. Absent a statute or a reasonable regulation specifying criteria for administrative standing, one may become a party to an administrative proceeding rather easily.

The Court of Appeals reversed the Court of Special Appeals in Dorsey and provided a lengthy quote on pages 72 and 73 of prior cases summarized by the Court of Appeals in 1996 in Sugarloaf v. Dept of Environment, 344 Md. 271, 286 (1996):

“The requirements for administrative standing under Maryland law are not very strict. Absent a statute or a reasonable regulation specifying criteria for administrative standing, one may become a party to an administrative proceeding rather easily. In holding that a particular individual was properly a party at an administrative hearing, Judge J. Dudley Digges for the Court in Morris v. Howard Res. & Dev. Corp., 278 Md. 417, 365 A.2d 34, 37 (1976), explained as follows:

‘He was present at the hearing before the Board, testified as a witness and made statements or arguments as to why the amendments to the zoning regulations should not be approved. This is far greater participation than that previously determined sufficient to establish one as a party before an administrative agency. See, e.g., Baxter v. Montgomery County, 248 Md. 111, 113, 235 A.2d 536 (1967) (per curiam) (submitting name in writing as a protestant); Bryniarski v. Montgomery Co., 247 Md. 137, 143, 230 A.2d 289, 293-94 (1967) (testifying before agency); Hertelendy v. Montgomery Cty., 245 Md. 554, 567, 226 A.2d 672, 680 (1967) (submitting into evidence letter of protest); DuBay v. Crane, 240 Md. 180, 184, 213 A.2d 487, 489 (1965) (identifying self on agency record as a party to proceedings); Brashears v. Lindenbaum, 189 Md. 619, 628, 56 A.2d 844, 849 (1948) (same). Bearing in mind that the format for proceedings before administrative agencies is intentionally **396 designed to be informal so as to encourage citizen participation, we think that absent a reasonable agency or other regulation providing for a more formal method of becoming a party, anyone clearly identifying himself to the agency for the record as having an interest in the outcome of the matter being considered *73 by that agency, thereby becomes a party to the proceedings.’”

And in Maryland-Nat'l v. Smith, *supra*, 333 Md. at 10, 633 A.2d at 859, we stated:

“Morris and other cases of this Court indicate that the threshold for establishing oneself as a party before an administrative agency is indeed low. Although we have said that one's presence at the hearing and testimony in favor of an asserted position is sufficient, *id.*, we have also said that **personal appearance and testimony at the hearing are not required**. Hertelendy v. Montgomery Cty., 245 Md. 554, 567, 226 A.2d 672 (1967); Largo Civic Ass'n v. Pr. Geo's Co., 21 Md.App. 76, 81, 318 A.2d 834 (1974). In fact, it has been held to be sufficient that the hearing examiner considered the appellant to be a party, Northampton v. Pr. George's Co., 21 Md.App. 625, 633-34, 321 A.2d 204, *rev'd on other grounds*, 273 Md. 93, 327 A.2d 774 (1974), or that the appellant's name was

submitted to the Board of Appeals as one who would be aggrieved by an adverse decision. Wright v. McCubbin, 260 Md. 11, 14, 271 A.2d 365 (1970). See also Baxter v. Montgomery County, 248 Md. 111, 113, 235 A.2d 536 (1967) (**submitting name in writing as a protestant is sufficient**); Bryniarski v. Montgomery Co., 247 Md. 137, 143, 230 A.2d 289 (1967) (testifying before agency is sufficient); DuBay v. Crane, 240 Md. 180, 184, 213 A.2d 487 (1965) (identifying self on agency record as a party is sufficient)." (emphasis added).

The Court of Appeals has also again addressed standing where there is more than one party on the same side. In Garner v. Archers Glen Partners, Inc., 405 Md. 43, 54 (2008), Judge Harrell explained, quoting People's Counsel v. Crown Development Corp. 328 Md. 303, 317 (1992),

"It 'is a settled principle of Maryland law that, 'where there exists a party having standing to bring an action . . . we shall not ordinarily inquire as to whether another party on the same side also has standing.'" [citations omitted].

Judge Harrell pointed out the court's **" . . . traditional reluctance to address issues of standing not necessary to the outcome of a case . . ."** [citations omitted].

In this vein, People's Counsel has often entered its appearance in cases involving appeals filed by citizens, and the Board has recognized the office's legitimate interest.

The Court has also approved People's Counsel's intervention at the court level to defend density standards. In addition to discussing standing in People's Counsel v. Crown Development, 328 Md. 303 (1992), (which was cited in Garner), Judge McAuliffe in Crown Development also had important comments about the role of People's Counsel on page 317:

"In any event, the circuit court did not err in permitting intervention. People's Counsel has been given a broad charge to protect the public interest in zoning and related matters. See Baltimore County Charter § 524.1. Density regulation is an important part of the zoning process. West Mont. Ass'n v. MNCP & P Com'n, 309 Md. 183, 194, 522 A.2d 1328 (1987). Although participation in the development plan process may often be outside the intended ambit of People's Counsel's authority, where protection against a violation of a density regulation is involved, People's Counsel has a legitimate interest."

In the instant case, People's Counsel expressed its concerns about illegal density in its letter to the Board and to the attorneys for Petitioner and Protestant, when we stated that the Petition for Variance appeared to be for a *"de facto second dwelling . . ."*

More recently, the Circuit Court approved People's Counsel motion to be joined as a party in the Freeland Legacy Alliance declaratory judgment case challenging the 2004 comprehensive zoning ordinance.

Part II

The R.C. 2 Zone Prohibits a Second Dwelling on a Lot

"No more than one principal dwelling is permitted on any lot in an R.C. 2 zone." BCZR 1A01.3.B.4. A dwelling is defined in BCZR 101 as ". . . A building or portion thereof which provides living facilities for one or more families." A tenant house is permitted as an accessory use, generally to house workers who assist in the farming operation. BCZR 1A01.2.B.9.i. The fact that a site may have sufficient density for more than one dwelling is irrelevant. A property owner must comply with many zoning, subdivision and development regulations before a building is constructed. This is supported by BCZR 102.1 which states, "No land shall be used or occupied and no building or structure shall be erected, altered, located or used except in conformity with these regulations. ..." In Kowalski v. Lamar, 25 Md.App. 493, 498 (1975), Judge Rita Davidson discussed the BCZR structure and wrote of this section, "Any use other than those permitted and being carried on as of right or by special exception is prohibited."

The CBA (Messer's Witt and Grier and Ms. Murphy) recently denied the use of an accessory building as a residence for the owner's son, In The Matter of J Gary & Barbara Mueller Case 08-471-SPH. This decision is consistent with recent prior CBA Opinions which denied requests for dwellings in accessory buildings for the petitioner's family members. See In the Matter of Brian and Robin I. Znamirowski, Case No. 07-332-SPHA and In the Matter of Christopher and Charlotte Oktavec, Case No. 08-132-SPH. At the deliberation in the Mueller case, a panel member remarked that the definitions of accessory uses and structures in BCZR 101 do not include a dwelling use. This analysis comports with the limitation in the R.C. 2 zone here of one dwelling per lot. Similarly, the Mueller property was split zoned R.C. 4 and R.C. 5, and both zones limit a lot to one dwelling.

Only Uses Accessory to the Residential Use Can Exist in a Separate Structure;
Limited Non-Residential Uses Must Be Conducted Entirely
Within the Principal Dwelling

The zoning regulations define accessory use or structure and accessory building in BCZR 101. The first requirement is that the use or structure “is customarily incident and subordinate to and serves a principal use or structure;” In the residential zones, we generally regard garages for the residents’ automobiles, small storage sheds, and swimming pools as customary accessory uses. Barns are typical accessory buildings for farming operations. Further restrictions of accessory uses are in BCZR 400.1-400.3.

In addition, the residential zones contain strict standards for customary non-residential uses such as a home occupation or a professional’s office. First, they must be located entirely within a dwelling. There are limits on footage devoted to the non-residential use, the number of employees permitted, if any, and the equipment allowed. A “professional” must meet the threshold definition and only then as a special exception use subject to BCZR 502.1.

It is not insignificant that under BCZR 101, an accessory building, even for a legitimate use, is not permitted on a vacant lot. BCZR 101.

It follows that a proposed building or use that does not comport with the strict residential standards and the intent of the zone must be carefully scrutinized. The Board should not be cajoled into approving a structure in the agricultural zones because it is called a “barn” or approving a building that includes self-sustaining living facilities because it is called “accessory”. Otherwise, the important density restrictions in the residential zones are diluted and the development and subdivision processes are neglected.

In conclusion we believe the interplay between accessory uses and buildings and the principal dwelling should be strictly construed.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of April, 2009, a copy of the foregoing People's Counsel for Baltimore County's Memorandum was mailed to Michael Tanczyn, Esquire, 606 Baltimore Avenue, St. 106, Towson, MD 21204 and Howard L. Alderman, Jr. Esquire, Levin & Gann, P.A., 502 Washington Avenue, 8th Floor, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

IN RE: PETITION FOR VARIANCE
N/S Glencoe Road at its Intersection
w/Shermantine Lane
(1718 Glencoe Road)

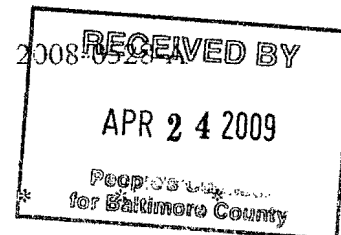
10th Election District
3rd Councilmanic District

Robert W. Lange, *et ux.*

Petitioners

* * * * *

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* Case No.: 2008-0528



**MEMORANDUM OF W. CRAIG KENNEY, PROTESTANT
TO THE BOARD OF APPEALS**

Now comes *W. Craig Kenney*, Protestant, by his attorney, *Michael P. Tanczyn, Esquire*, and submits the within Memorandum of Law to assist the Board in its decision in this matter.

STATEMENT OF THE CASE

Petitioners, the legal owners of 1718 Glencoe Road, filed a Petition for Variance requesting variance relief from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations to permit an accessory structure shown as a barn on the Plan to be located in the front yard in lieu of the rear yard with a height of 25 feet for the structure proposed in lieu of the permitted 15 feet. This matter was heard before the Zoning Commissioner of Baltimore County who granted the zoning relief requested by Order August 1, 2008 with six conditions as stated therein. W. Craig Kenney, Protestant, through counsel filed an appeal to the Board of Appeals on August 27, 2008 which matter was then scheduled for hearing on Tuesday, March 17, 2009. On the hearing date, one of the Petitioners, Karen Lange, appeared with counsel, Howard L. Alderman, Jr. of Levin and Gann, as well as Bruce E. Doak, a registered property line surveyor. W. Craig Kenney, Protestant, appeared with the undersigned counsel and the appearance of

People's Counsel with a letter was entered in the case by Deputy People's Counsel, Carol DeMilio, Esquire.

STATEMENT OF FACTS

Bruce E. Doak, who was stipulated to be an expert witness as a professional land surveyor, was admitted as such by the Board of Appeals. The Petitioners had purchased the subject property by deed March 1, 1999. At the time of their purchase, the subject property was an 11 acre parcel on which the primary structure had been built in 1986, a two story frame dwelling home. The location of the improvements on the property and the configuration of same as more particularly described on Plan to accompany a variance request for the Lange property, introduced with redline notes as prepared by Mr. Doak as CBA Petitioners' Exhibit 1. That Plan was a proposed barn structure drawn which had a footprint with detail also shown on the Plan. The property, when purchased, and at the time of petition was zoned RC2 and had been used since it was purchased by the Petitioners as residence for themselves and their three children.¹ Mr. Doak described the property as a particularly wooded, hilly area which, from the rear of the Petitioners' property runs down hill to Glencoe Road. He described the upper meadow which lay above the house and proposed barn area. Mr. Doak described a cross-hatched highway widening area on the Plan, as well as a 10 foot revertible slope easement, had not been constructed, although Baltimore County owned that portion of the property. The residence was described by Mr. Doak as being a two story wood frame home with an inground pool in the back reached by the road network from Glencoe Road.

¹ At the hearing, Karen Lange refused to identify the current residents of the premises as of the time of hearing.

This property had been part of a subdivision of the Milton F. Firey property as recorded in plat book 48, folio 97 that was introduced as CBA Petitioners' Exhibit 3 as approved November 18, 2001 as Lot 1 on the minor subdivision plat. That plat indicated the property was zoned RC2. That plat further reflected the taking for the road and the revertible slope easement referred to on current Plan of Petitioners. The property was served by well and septic although as Mr. Doak's plat notes, he was unable to locate the septic reserve area for the property. The footprint of the residential building was as shown on the Plan.

Mr. Doak described the proposed "barn" would be used for storage of equipment or items for maintenance of the property. He reviewed the amenities proposed for the proposed building, including two fire places, a wood stove, kitchen, bath and outdoor shower with a 11.5 foot by 21.5 foot tractor shed located on one end of the building. He testified that the 25 foot height was requested in the event the structure needed to be later used for hay storage, although that was not proposed at present. He reviewed the ZAC comments, particularly from DEPRM and Planning. The dimensions for the proposed "barn" were 66 feet by 24 feet by 25 feet, not counting the rear appendage measuring 8 feet deep by 18-1/2 feet long enclosing the kitchen, bath and outdoor shower which was part of the proposed structure. Petitioners introduced as CBA Petitioners' Exhibit 4, the Zoning Commissioner's Order in this case and findings of fact and conditions. Mr. Doak noted the proposed structure is not located in an open area on the upper field but in the toe of a steep slope and Petitioners introduced as CBA Petitioners' Exhibit 5 an aerial view showing the Petitioners' property and the surrounding properties as existing in 2008 by Google. The Petitioners then introduced through Mr. Doak photographs as CBA Petitioners' Exhibit 6A through 6F which had been taken by Mr. Doak March 11, 2009 showing viewing areas for the

proposed "barn" structure, as well as Mr. Kenney's house in 6D and the Lange residence.

Petitioners' Exhibit CBA 7 was a Plan referencing the points from which the pictures in Exhibit 6 had been taken. Petitioners introduced CBA Petitioners' Exhibit 8A through I photographs also taken the week before the Zoning Commissioner hearing and introduced below showing points of reference for access the Lange home and the proposed area for the barn site which had been introduced in the Zoning Commissioner's hearing.

Mr. Doak explained that in his view, the reason for one variance is that their accessory structure proposed had to be located in the front yard because of the location of the Lange home on the property. He also described as a reason for the 25 foot height variance on the barn in his direct examination in lieu of the 15 foot height requirement was to accommodate any future conversion to a farm building. He testified as to another project in which a similar variance had been granted at 13023 Beaver Dam Road which was introduced as CBA Petitioners' Exhibit 9.

On cross examination, Mr. Doak acknowledged the architectural renderings of Sarah Schweitzer (CBA Protestant's Exhibit 1) introduced before the Zoning Commissioner, indicated that the ends of the building proposed were at an elevation of 15 feet for the tractor shed where it joined the main structure, as well as on the porch on the far end, and he was unaware of any proposed equipment which would exceed the 15 foot proposed roof height for the tractor shed. He acknowledged that as shown on the footprint of the proposed barn on his Plan, as well as Ms. Schweitzer's drawings that there would not be vehicular access to the main building where the 25 foot height was proposed by any mechanical equipment due to the narrowness of the entry ways and the existence of brick or stone interior walls housing the fireplaces at the perimeter of the portion of the structure proposed to be 25 feet high. His answer to that situation was that the

doors and windows could be pulled out in the future to accommodate a barn door in the future.

After a luncheon break, Karen Lange, one of the Petitioners, testified that she and her husband have owned the subject property since March of 1999. (CBA. Protestant's Exhibits 3, 4) At the time they purchased it, the existing home was located there and the pool was in place and the septic and well were in place. She testified since they purchased the property that there has been no grading to the property behind the house and that she lived there with her three children, two twin sons age 14 and one daughter away at college, age 19.

When asked what use she proposed for this structure, she advised the Board that her children could have their friends over and that the accessory building would give them a place to go when they were dirty and muddy after playing football and would provide a place for storage of a lawn mower since they were all old enough to mow the property. She stated that the principal use of the building proposed as an accessory structure would be for recreation and entertaining and for what she referred to as family storage.

She testified on direct that there would be no bedrooms constructed in the accessory structure and that it would not be used for commercial or business purposes. She described the use to be made of the kitchen and shower as to provide a place to prepare refreshments and that the wood stove and fireplace were just an amenity to be provided. When asked why she was requesting approval for a 25 foot height for the main part of the proposed "barn," she described it as a hybrid or a convertible. She said if in the future she changed her mind and decided to get horses, she wanted to have a place to put them. She testified that from her home she could not see the Kenney home up on the hill and she advised that to her knowledge, the septic reserve area was located to the rear of her home.

She testified she was not planning to subdivide the property and that she believed her hardship if forced to comply with the height limit of 15 feet for an accessory building would make it difficult to convert this structure in the future to a farming use building. She testified that her home, contrary to the findings in the Zoning Commissioner's opinion in this case, has a basement and she testified that in the present residence that she has an office for her business use.

On cross examination, although she denied that the proposed "barn" would be used for business use, she acknowledged the SDAT documents introduced as (Protestant's Exhibits CBA 7A-C) that she had signed Articles of Organization for Monotype Acquisition, LLC listing the principal office at 1718 Glencoe Road, Glencoe, Maryland 21152, listing herself as resident agent at that address for the company as well. She had also executed Articles of Transfer when she purchased the monotype composition company which also disclosed as principal place of business as well as resident agent address of 1718 Glencoe Road, Glencoe, Maryland 21152 which was executed January 25, 2004. She also acknowledged her signature on Articles of Amendment for Monotype Acquisition, LLC changing its name to Monotype LLC in September of 2005 with no change to the principal business address in that stated earlier.

She acknowledged that the property lawn had been mowed by a neighbor, Mr. Hach, and by his child in the picture shown her (CBA Protestant's Exhibit 9) and that the upper meadow or field was used for sports activities as shown in the pictures (CBA Protestant's Exhibit 8). She further acknowledged that she did not own a lawn mower or any farm related equipment at the present time. She confirmed that she had no agricultural support uses in mind for the proposed accessory structure at the present time. She testified that her existing residence had four bedrooms and that the existing basement was presently being used for recreational use by her

children who still resided there.

She acknowledge in a series of pictures taken (CBA Protestant's Exhibits 10, 11, 12 and 13), that substantial clearing of the trees on her property had occurred including understory since the Zoning Commissioner's hearing was held in the summer of 2008 as reflected in numerous ground level and aerial pictures introduced as Protestant's Exhibit. She claimed to have had DEPRM approval for stone thrown in the creek running through their property (CBA Protestant's Exhibit 14) which was done to afford access for her daughter's high school graduation party for visitors' vehicles.

Following conclusion of the Petitioners' case, the Protestant, W. Craig Kenney, testified that he owned the 20 acre lot known as 1716 Glencoe Road since October 1983. Mr. Kenney's concerns about the zoning relief requested for the proposed "barn" building are based on his belief that it was not intended to be used for any agricultural purpose and that the whole area, including his property and the subject property were zoned RC2 which was intended to protect and promote agricultural uses and agricultural support uses. While he acknowledged residences are permitted in RC2 zones, he noted that the Langes already have a residence and that this appears to be a second residential structure considering the size of the structure and the living facility amenities proposed which are unusual for an agricultural barn building including two fireplaces a wood stove, glassed in doors, walls and a sun porch with a kitchen, bath and outdoor shower.

Mr. Kenney pointed out that if the proposed building were to be actually used for an agricultural purpose, that the variance would not be necessary since agricultural uses are exempt from the 15 foot height limit applicable to accessory buildings. He pointed out that the accessory

use proposed was that of a residence and that the Lange's existing residence was large enough to support reasonable use as a residence. His conclusion was that the proposed building is a "defacto" second residence which is prohibited under the zoning regulations for RC2 zones.

Mr. Kenney also testified about the clearance of trees and understory on the Lange property which made what he considered to be a bad situation worse in terms of the effect on his property values caused by the creation of a "defacto" second residence at this property.

Mr. Kenney introduced his own photographs he had taken showing the clearance of trees and understory adjacent to the stream prior to the Zoning Commissioner's hearing and since the Zoning Commissioner's hearing in the summer of 2008. The pictures showing the meadow with the sports equipment (CBA Protestant's Exhibit 8), and the picture of the lawn being mowed by the son of the Hachs is CBA Protestant's Exhibit 9. The CBA Protestant's Exhibit 10 was a picture showing the clearing crew and the grinder before clearing out the understory next to the stream area and Exhibit 11 is a close up and a larger view of the clearing area for the understory and Exhibit 12 and Exhibit 13 show the same after clearing along the creek. Exhibit 13 shows the same after clearing along the creek with the cut wood displayed. CBA Protestant's Exhibit 14 was a picture taken of the stone driveway created over the creek for the Langes' daughter's graduation party and CBA Protestant's Exhibit 15 was a picture taken in December 2008 by Mr. Kenney showing the running water stream north of Glencoe Road from the Lange property and CBA Protestant's Exhibit 16 is a picture taken in the same time frame by Mr. Kenney showing the running water stream north of Glencoe Road on the Lange property.

CBA Petitioner's Exhibit 1 marked in pink by Mr. Doak was the stream path on the Lange property and adjacent properties showing the proximity of the stream to the proposed

“barn” structure.

He believed that the proposed accessory structure would be clearly visible and much more with a height of 25 feet than it would if limited to the height limit of 15 feet for accessory structures to residential buildings. He believed that under the circumstances and particularly because the proposed use was claimed to be for residential recreation that the proposed building was adaptable for business presentations or client schmoozing for Mrs. Lange’s business and that no hardship was claimed or presented by the Langes to justify getting variance relief to build a structure 25 feet high. As the Langes had a substantial residence in place with a pool and recreational area to the rear of it when they purchased the property in 1999, he opposed the variance request and for the reasons he testified to at the hearing. He also denied that the property was unique from a zoning perspective as is required for grant of affirmative zoning relief. In this case, he believed the request for a height variance to 25 feet in lieu of the required 15 feet was spurious based on the Petitioners’ own testimony as to the proposed use for the building for recreational purposes. None of the uses described or proposed by either Mrs. Lange or Mr. Doak would require a 25 foot height and the claim that any second floor would be used for storage was belied by the fact that if approved, the basement of the Lange home would no longer be needed for recreational purposes and could be used for storage.

Petitioners’ Exhibit 10 introduced letters of support from neighboring property owners. The letters of support appear to be misleading or based on the flawed understanding of the facts. The Board should note that the letter from the neighbor at 1707 Glencoe Road claims the home does not have a basement and therefore needs more storage space. Additionally, the neighbors at 1707, 1652 and 1715 Glencoe Road all agree in the form like letters that extra storage space is

needed and that this will allow entertainment for the children's friends instead of making them go to a mall or a movie theater. The operative facts are that the house has a basement as testified to by Ms. Lange and that the occupants of the current residence with recreational space presently provided at least in the basement are free at present to go to the mall and the movie theater at any time as they would be even if this proposed "barn" was approved and built. The last letter from the neighbor who does not list an address and whose name may be Chalmers gives no particular reason for the support of the Petitioners' request.

Petitioners' CBA Exhibit 11 was an Exhibit to the Motion made by Petitioners' counsel to dismiss People's Counsel as a party to this proceeding which is an excerpt from the Baltimore County Charter.

ISSUES

Issue 1

Petitioners' moved to dismiss People's Counsel from the proceedings as a party for failure to attend the hearing. At the conclusion of the case, counsel for the Petitioners made a Motion that People's Counsel be dismissed from the proceeding as a party because Ms. DeMilio had not physically attended the hearing on March 17, 2009. Ms. DeMilio had filed a letter with the Board of Appeals and People's Counsel had entered their appearance in the case previous to the hearing. The Petitioners alleged that People's Counsel was not entitled to appear as a party in interest because they had failed to attend the hearing and had not in the opinion of the Petitioners' counsel meaningfully participated in the proceeding. The Board requested that People's Counsel be notified of the filing of the Motion which was done by Protestant's counsel and that both People's Counsel and Protestant's counsel addressed the issue in the Memos. The

Petitioners' Motion to Dismiss should be denied.

Under the Baltimore County Charter, Section 524.1(a)(3)(a), the People's Counsel is expressly empowered to appear as a party before the County Board of Appeals "in any manner or proceeding now pending or hereafter brought involving zoning reclassification and/or variance from or special exception under the Baltimore County Zoning Regulations, . . . People's Counsel entered their appearance in writing in the instant case by Ms. DeMilio's letter of appearance filed the week prior to this hearing. That Charter section enumerates the breadth of rights of People's Counsel affording the Office "all the rights of counsel for a party in interest, including but not limited to . . . to object, to be heard, and to file and prosecute an appeal in his capacity as People's Counsel from any order or act of the Zoning Commissioner of Baltimore County or as Deputy or of the County Board of Appeals to the Courts as an aggrieved party pursuant to the provisions of Section 604 of the Charter to promote and protect the health, safety and general welfare of the community."

That broad description of powers has been affirmed in numerous Appellate Decisions in the reported Decisions of the Appellate Courts of Maryland. First, in Dorsey v. Bethel AME Church, 375 Md. 59 at 825 A.2d 388 (2003), the Court of Appeals reversed the Decision of the Court of Special Appeals finding individuals lacked standing in the judicial review action because they were allegedly not parties before the Baltimore County Board of Appeals. In its decision, the Court cited the "liberal standards under Maryland law for party status at an administrative hearing." Quoting Sugarloaf v. The Department of Environment, 344 Md. 271 at 286-287, 686 A.2d at 613 in which the Court explained "the requirements for administrative standing under Maryland law are not very strict. Absent a statute or a reasonable regulation

specifying criteria for administrative standing, one may become a party to an administrative proceeding rather easily, quoting cases therein. Significantly, the Court further noted “Morris and other cases of this Court indicate that the threshold for establishing oneself as a party before an administrative agency is indeed low. Although we have said that one’s presence at the hearing and testimony in favor of an assertive position is sufficient, id., we have also said that personal appearance and testimony at the hearing is not required.” Dorsey, supra at 72.

In this case, the Deputy People’s Counsel presented a thoughtful letter to present the concerns of People’s Counsel concerning this Petition for Variance and the reasoning why People’s Counsel felt that this Petition should be scrutinized and if found wanting, denied. The Charter prescribed right of People’s Counsel to object and to be heard does not specifically specify or require full attendance or appearance before the Board. If the Charter or any section of the Baltimore County Code so required, the Office of People’s Counsel would have to be much larger than its present budget will allow in order to have as a requirement a physical presence at every single hearing. In Garner v. Archers Glenn Partners, Inc., 405 Md. 43 9459 A.2d 639 (2008) decided June 9, 2008, the Court of Appeals noted:

“It is a settled principal of Maryland law that, ‘where there exists a party having standing to bring an action . . . we shall not ordinarily inquire as to whether another party on the same side also has standing.’”

Quoting Sugarloaf, Garner, supra at 53. In this case, as the Board is aware, W. Craig Kenney had entered the Appeal and appeared with counsel and participated fully in the hearing. Under these circumstances and the Sugarloaf holding, the basis for Mr. Alderman to attempt, on behalf of the Petitioner, to deny standing to People’s Counsel is of dubious import.

Further, in People’s Counsel for Baltimore County v. Crown Development Corp., 328

Md. 303, 614 A.2d 553 (1992), the Court of Appeals found that People's Counsel's intervention at the Circuit Court level on developer's appeal from the County Board of Appeals' refusal to allow transfer of housing density was properly permitted under the theory that People's Counsel had been given broad charge to protect the public interest in zoning and related matters. In that case, the appeal to the Board of Appeals had been brought by a citizen resident and People's Counsel had not participated in the hearing before the Board. The Court of Appeals' reasoned because there was another party, the presence of People's Counsel was not required to obtain appellate review at any level of the case. People's Counsel, supra, at 317. Under the circumstances present in the instant case, the Protestant requests that the Board deny the motion to dismiss People's Counsel as a party as without merit.

Issue 2

Have the Petitioners met their legal burden of proof for a variance at the site as unique under the standards in B.C.Z.R. Section 307 in Cromwell v. Ward, 102 Md. App. 691 (1995) and subsequent supporting case law?

Issue 3

Have the Petitioners proven practical difficulty of any kind in constructing an accessory "barn" structure 15 feet high as opposed to the requested 25 feet high where a barn for agricultural use, agricultural support uses would not require a variance in the first place; and the Petitioners disavowed any agricultural or agricultural support use as a justification for the variance in their proposed use of the structure if approved?

ARGUMENT 2

1. The Petitioners' proposal should be considered in light of the zone in which it is

located and the nature of the request. The property is zoned RC2, Agricultural as defined under B.C.Z.R. Section 1(a)01.1, et seq. When the Langes purchased this 11 acre parcel, there was in place a 3300 square foot residential two story improvement with inground pool, graded pretty much according to Mrs. Lange's testimony as it exists today. The property was RC2 when it was subdivided and the Petition for Variance states that it is needed to construct a barn. A review of the Uses Permitted by Right under B.C.Z.R. 1(a)01.2(b)(9), Accessory Uses or Structures, contains eleven (11) possible choices, none of which is defined as a barn nor as a additional recreational area.

As was pointed out in People's Counsel's Memo, the Webster definition of a barn is "a farm building used for storing farm products and sheltering livestock." There is no testimony at all by the Petitioners or their witnesses making any claim that this building, if approved at the variance height of 25 feet, would be used for the purposes of a barn. Ironically, a barn would be permitted to be built to a height of 35 feet in an RC2 zone under B.C.Z.R. 1(a)01.3(a) only as limited by Section 300 of the Regulations. Exceptions set forth in B.C.Z.R. Section 100.1(a) specifically exclude barns and silos or other accessory agricultural buildings.

If the Petitioners' proposed structure truly were intended to be a barn, it would be exempt from the 15 foot height limit for an accessory structure. The proof that the Petitioners did not intend for this to be a barn can be logically deduced by the fact that the Petitioners chose to file for a variance requesting variance relief because their proposed claimed use for a residential recreation area would require adherence to the 15 foot height limit for an accessory structure. The Petitioners caused further confusion in their request because an accessory recreational area is not a permitted accessory use in an RC2 zone. If the Board of Appeals looks at Note 12 on CBA

Exhibit 1, Mr. Doak's redline comment says not only that there will not be a second floor, the note says "the proposed structure will never be used as a dwelling." This is significant for several reasons. The B.C.Z.R. definition Section 101.1 defines dwelling as a building or portions thereof which provide living facilities for one or more families. In an RC2 zone as Mr. Doak is well aware, as an experienced professional land surveyor, B.C.Z.R. 1.A.01.3(b)(4) limits the number of dwellings on an RC2 zoned lot of this size to one (1). As RC-2 regulations were enacted in 1979, antedating this subdivision, and the property has been zoned RC-2 from that time to the present, the legislative Statement of Findings found in BCZR 1.A.01.1(a) are worth reviewing. The proposed "barn, as described and its proposed uses from the Petitioners and their agents, does not seem to meet the criteria of any agricultural support issues set forth in BCZR 1.A.01.2(c)(29) as enumerated therein. To cut to the chase, the Petition for Variance met with both County agency opposition, as well as that of Mr. Kenney. That leaves the Petitioners and the Protestant with the following proposition. The Petitioners, whose testimony was that this was for personal recreational use of their family have removed any basis on which to approve the barn of right as an agricultural support facility. Because the Petitioners label the structure as a "barn," the Petitioners' attempt to create as a justification for the height variance requested is premised that when they are done using this structure for recreational purposes in the future, some future owner may want to use it as a barn. Therefore, this is a request for a hypothetical future use of the structure as a barn or as a farm structure which is neither contemplated nor proposed nor intended for such use by the Petitioners in making this request. Ironically, if it were being built as a barn for an agricultural use, the structure would be exempt from meeting the 15 foot height limit and could be built as high as 35 feet in and RC2 zone.

It is in that context that the Petitioners claim of uniqueness should be assessed. The Petitioners must first prove that the site is unique as that term is defined in Cromwell v. Ward, 102 Md. App. 691 (1995). the Petitioners must then show these unique characteristics or features create such a practical difficulty to prevent a reasonable use.

Before Judge Cathell in Cromwell compared the evidence there against the definition of uniqueness and practical difficult, he pointed out the essence of variance relief in zoning law. He stated at p. 711:

“One indication of the general rule that variances are rarely appropriate is that, in our review of the reported Maryland cases since the creation of the state zoning enabling act in 1927, we have found only five reported Maryland cases in which the grant of a variance has been affirmed or the denial of a variance has been reversed.”

In the almost 13 years since Cromwell, the appellate courts have not granted a variance under general variance laws. Umerley v. People’s Counsel, 108 Md. App. 497 (1996); Riffin v. People’s Counsel, 137 Md. App. 90 (2001); Trinity Assembly of God v. People’s Counsel for Baltimore County, 178 Md. App. 232 (2008), (Writ of Certiorari granted) in Baltimore County, Montgomery County v. Rotwein, 169 Md. App. 716 (2006) and Chesley v. City of Annapolis, 176 Md. App. 413 (2007), all affirmed the denial of variances.

The general law of variances, which as we shall see, Maryland is in accord, is stated as follows:

“... with respect to variances, it is said that a variance is ‘designed as an escape hatch from the literal terms of the ordinance which, if strictly applied, would deny a property owner all beneficial use of his land and thus amount to confiscation.’” (citations omitted; emphasis supplied). Young, American Law of Zoning 4th Edition, Section 20.02.P.411, 412.

B.C.Z.R. 307.1 is likewise in accord with general variance law and the Maryland

appellate courts and states that the CBA may grant variances:

“... only in cases where *special circumstances or conditions exist that are peculiar to the land or structure* which is the subject of the variance request and where strict compliance with the zoning regulations of Baltimore County would result in practical difficulty or unreasonable hardship.” (emphasis added).

Variances are not favored under the law and presumed to be in conflict with the general rule.

Petitioner must meet strict standards for a variance.

“The burden of proof is on the applicant to establish his land is uniquely affected resulting in unnecessary hardship.” Cromwell at 721 (citations omitted).

Petitioner must prove some feature or characteristic of the site is unique; the plight or preferences of the property owner do not constitute uniqueness.

The word “unique” is defined strictly. Otherwise, anyone could make some sort of claim.

In Cromwell, the Court stated:

“In the zoning context the ‘unique’ aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property.

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

In the instant case, particularly as to the height variance, Mr. Doak’s testimony did not reflect in any way the uniqueness standard in Cromwell. He claimed the uniqueness came from the hilly nature of the Petitioners’ property. In fact, the height of the proposed structure is not in any way affected by the hilly nature of the Petitioners’ property. The hilly nature of Petitioners’ property in no way affects the height to which the building can be built. How could uniqueness

affect or require a variance as to height when the existing recreational area for the family at the pre-existing residence at 1718 Glencoe Road is located on the same hill slope 200 feet away.

Per Mr. Doak's testimony, the subject site was created in the minor residential subdivision process. The size, shape and topography of this site have zero effect or impact on the Petitioners' ability to adhere to the 15 foot height requirement. The Petitioners just don't want to comply. There is no severe impact on any height of any building proposed to be built occasioned on the Petitioners. They can build a 15 foot high structure. The area in which they propose putting a lawn mower or a tractor if they ever buy one is 15 feet high. Mr. Doak said there would be adequate area which is shown on the architectural drawings rendering where a tractor could be pulled in and pulled out quite satisfactorily. As the remainder of the proposed structure is either for a party or business use, there are no attributes for either party or business office use which have even been claimed by the Petitioners to justify or require that the building be built to a height of 25 feet in lieu of the 15 foot height for an accessory building. In point of fact, this is not an accessory building, this is an unconnected extension of the residence already existing on the Petitioners' property. It is a "defacto" second dwelling because the living space and living facilities proposed therein include a kitchen, indoor bath and an outdoor shower, as well as two full fireplaces and a wood stove. These are certainly part of what would be called living facilities in any home. Living facilities are included in the zoning regulation definition of a dwelling, and so this is, despite the Petitioners' best efforts to call it a "barn," a prohibited second dwelling. Second dwellings are prohibited absent a further subdivision of Petitioners' property.

ARGUMENT 3

The Petitioners' variance case fails because in both Mr. Doak's testimony and the Petitioner, Ms. Lange's testimony, there is simply no practical difficulty enunciated which prevents the property owner from utilizing the property because of the application of the 15 foot height limit for an accessory structure. While not abandoning Protestant's position that this is a "defacto" second dwelling, Petitioners frankly admitted, particularly in Ms. Lange's testimony and Mr. Doak's testimony that there was no residential recreational activity which could not be performed in the building if it were built with a 15 foot height limit. This becomes a matter of personal preference which is routinely found insufficient to justify the grant of a variance for the authority mentioned in Argument 2 incorporated herein by reference. Further, in the testimony at the hearing, the Langes don't even own a tractor or a mower and there was no recitation or representation of any farming activity of any kind proposed to be done at the property. The 15 foot height limit imposes none, zero, nada practical difficulty or unreasonable hardship of any kind on the Petitioners.

The amenities and living facilities proposed for this party barn include a spacious sunroom, kitchen, bath, outdoor shower, two fireplaces and one wood stove. These would all meet the test of living facilities which constitutes part of a dwelling as defined in the zoning regulations. Indeed, Mrs. Lange couldn't have been more clear on that exact point. She essentially wants to take living facilities created in this party barn and displace her family members from the perfectly fine residence with recreational area at 1718 Glencoe Road so that they will not muddy up her house.

The Board should take cognizance of Mrs. Lange's testimony that she has an office in

her home for her business use. The SDAT information for Monotype LLC, formerly known as Monotype Acquisitions, LLC, clearly indicates on papers signed by Mrs. Lange as an officer or managing member, as the case may be, of the entity involved that principal office for both the business, as well as the resident agent, named Karen Lange, was at 1718 Glencoe Road. As Mr. Kenney noted in his testimony, the layout of this recreational area would also be suited to either schmooze clients of her book publishing and composition business, as well as be a big wide open area for business presentations.

Whether the structure, if built, were utilized for that purpose or for recreational use, it would run afoul of the prohibition on the business use because that business office use is not permitted in RC2 zones unless related to a farming operation, as well as running afoul of the prohibition on two dwellings within one property in an RC2 zone absent a further subdivision. Any way it gets sliced, the use of the proposed structure in the manner proposed would be unauthorized in the zone. As the Board is well aware from other cases it has heard, in the case of a residential dwelling, it is considered a separate dwelling unless it is connected by some fashion to the original dwelling building by an arch or a covered walkway which connects both structures so that the County considers them one structure. In this case, calling it a barn doesn't make it a barn, particularly when the Petitioners disavow any barn or farm use of the structure. The Petitioners basis for claiming that it should be allowed for a future barn is untenable because the zoning regulations deal with existing or proposed uses and not potential or hypothetical future uses. If someone in the future wanted to build a barn or propose an agricultural support use, that would be a different case for a different day.

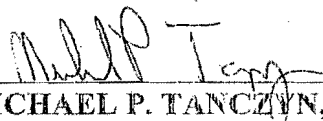
In this case, on the evidence before the Board, not only is there no basis for granting a

variance, there is no justification for allowing an additional dwelling even if it lacks bedrooms, because the definition of dwelling includes living facilities so that the absence of a bedroom does not prevent what is being built from meeting the definition of a dwelling.

CONCLUSION

For the aforesaid reasons, Protestant, W. Craig Kenney, by counsel, respectfully requests that Board of Appeals to deny the variances for the authority and reasons stated.

Respectfully Submitted,



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Attorney for W. Craig Kenney, Protestant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of April, 2009, a copy of the foregoing Memorandum was mailed, postage pre-paid to: Howard L. Alderman, Esquire, Levin & Gann, 502 Washington Avenue, Towson, Maryland 21204, attorney for Petitioners, and to Carol Demilio, Esquire at People's Counsel for Baltimore County, Jefferson Building, 105 West Chesapeake Avenue, Room 204, Towson, Maryland 21204.



MICHAEL P. TANCZYN, Esquire

CP
PMT

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827
Email: mptlaw@verizon.net

April 24, 2009
#2008-069

County Board of Appeals of Baltimore County
Attn: Mrs. Theresa R. Shelton, Administrator
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

RE: Case No. 08-528-A
In the Matter of Robert and Karen Lange

Dear Ms. Shelton:

Enclosed herewith for filing is an original and three copies of Memorandum of W. Craig Kenney, Protestant to be filed on behalf of Protestant, Craig Kenney..

Thank you for your consideration in this matter.

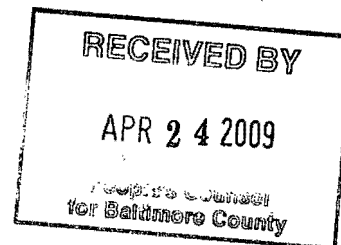
Very truly yours,


Michael P. Tanczyn

MPT:aes

Enclosures

cc: Howard L. Alderman, Jr., Esquire
W. Craig Kenney



4/24/09

BEFORE THE
COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

Case No. 2008-528-A

Robert W. and Karen O. Lange, *Owners*

Petitioners

1718 Glencoe Road
10th Election District
3rd Councilmanic District

PETITIONERS' POST-HEARING MEMORANDUM

Robert W. and Karen O. Lange ("Owners" or "Petitioners"), by and through their undersigned legal counsel, hereby submit this Post-Hearing Memorandum in accordance with the direction of the County Board of Appeals for Baltimore County ("Board") at the conclusion of the hearing held on the above-referenced appeal, in lieu of closing argument.

STATEMENT OF THE CASE

This case is not about unapproved stone placement in a watercourse. This case is not about preparation of Petitioners' property for use as a commercial enterprise or any business activity. This case is about the Owners' request, pursuant to the Variance authority vested in the Zoning Commissioner and this Board by the *Baltimore County Zoning Regulations* ("BCZR") and the *Baltimore County Code* ("BCC"), to permit an

accessory structure, initially for use by their children and friends for entertaining and for storage of personal items, tractors and land machines, to be located in the front yard at a height exceeding the fifteen (15) feet allowed on their property located at 1718 Glencoe Road (the "subject property").

The Petitioners own a single lot of record which is irregular in shape, with the existing dwelling tucked into the southern most portion of the lot. The rear yard is constrained from use for the proposed accessory structure by a mandatory road dedication and slope easement, existing topography, a pre-existing septic reserve area and in-ground swimming pool, all of which predate Petitioners' ownership. The requested relief was granted by the Zoning Commissioner for Baltimore County, subject to conditions that the proposed structure not have a second floor and not be used for living quarters, not contain any business use or activity, not employ high intensity exterior lighting on the north side, allowing Code Enforcement Officials reasonable access to ensure compliance and recording a restrictive covenant in the Land Records Office applicable to the approved use¹. Subsequent to the Zoning Commissioner's hearing, the lone Protestant whose home is approximately 0.12 miles away noted an appeal to this Board. The Board completed its *de novo* hearing on the appeal on March 17, 2009 and requested Post-Hearing Memoranda from counsel.

¹ A copy of the Zoning Commissioner's *Findings of Fact and Conclusions of Law*, dated August 1, 2008, was accepted as Petitioners' Exhibit CBA-4.

THE EVIDENCE

The Petitioners:

The Owner's evidence in this case was substantially unchallenged, except with respect to dislike, distrust and fear of the future by the sole "Protestant", W. Craig Kenney. Testifying on behalf of the Owners was Bruce E. Doak, a licensed Maryland surveyor who was accepted by this Board, without objection, as an expert in issues relating to property surveying and the BCZR. Mr. Doak's uncontradicted testimony included:

- the subject property was created as Lot 1, shown on the subdivision plat for the Milton J. Firey, III, Property, recorded among the Plat Records of Baltimore County in Plat Book No. 48 at page 97² (the "Plat");
- the subject property is an irregularly shaped parcel, approximately 11 acres in size;
- approximately 0.86 acres of the subject property was dedicated at no cost to Baltimore County as highway widening area for Glencoe Road;
- there is a revertible slope easement on the subject property adjacent to the highway widening area;
- the southern and westerly property lines of the subject property abut Glencoe Road, its right of way and are subject to the revertible slope easement;
- the subject property has a meandering driveway connecting to Glencoe Road, just north of the intersection of Glencoe Road and Shermantine Lane;
- the existing dwelling, not constructed by the Petitioners, is located in the southern, most narrow portion of the subject property

² A reduced copy of the recorded Plat is in evidence as Petitioners' Exhibit CBA-3.

- in the rear yard, there is an in-ground pool and septic reserve area that both pre-exist the Petitioners' ownership
- behind the pool and Petitioners' home there are areas of 25% or greater slope

At the Zoning Commissioner's hearing, the Plan which accompanied the Petition for Variance was modified by hand-drawing to show a slight modification and reorientation of the proposed accessory structure³ as well as adding a note that there would be no second floor to the structure. A 'clean' copy of that exhibit, with the modified location and orientation of the proposed accessory structure shown in engineering format was accepted by the Board as Petitioners' Exhibit CBA-2 (the "Plan"). The Plan shows the accessory structure, labeled as 'Proposed Barn' and also contains a footprint and proposed layout of the proposed structure.

Mr. Doak described the proposed accessory structure as approximately 66 feet wide, approximately 23 feet deep with an 8 foot deep bump-out in the rear, and 25 feet in height. Mr. Doak was provided preliminary architectural diagrams, reflecting the immediate use as a recreational area for the Owners' three children, and storage for land equipment and other household items. The footprint of the proposed structure depicts a small kitchen area, bathroom (toilet/water closet) and proposed outdoor shower. The interior of the

³ The modified Plan from the Zoning Commissioner's hearing was introduced as Petitioners' Exhibit CBA-1.

proposed structure will be heated by fireplace or woodstove.

The proposed location of the accessory structure is in the front yard of the subject property, located in the valley or low area of the property on the opposite side of the driveway from the existing home. The testimony of Mr. Doak was that nearly all of the rear yard of the subject property is consumed with the unusable highway widening dedication, the pre-existing pool and septic reserve area and significant topography with much of the sloped area in excess of 25% grade. A photograph taken by the Protestant from Glencoe Road [Protestant's Exhibit CBA-2] shows clearly the area of significant slope behind the Petitioners' home, which is vegetated with mature trees that shield the home from Glencoe Road when the trees are in leaf.

Mr. Doak's testimony, based on his understanding from the Petitioners and their architect, was that the accessory building was being designed with a height of 25 feet so that it could be converted in the future to barn/agricultural use. A farmer himself, Mr. Doak testified without objection or contradiction that increased height is needed for agricultural barns to accommodate tall farming equipment, material storage, etc. Mr. Doak testified candidly that the Petitioners' could have constructed an agricultural barn without regard to height per BCZR § 300.1. However, since the Petitioners' initial planned uses of the proposed structure were for additional recreational area for their children, together with land equipment and other storage, the necessary variance relief was sought.

In support of the isolated location on the subject property selected for the proposed

accessory structure, Petitioners' produced through Mr. Doak, an aerial photograph⁴ showing with annotations, the existing home of the Petitioners and the Protestant's house well over 600 feet away. Moreover, there are a number of homes closer than that of the Protestant to Petitioners' home and the location of the proposed accessory structure. Additional photographs of the Petitioners' property, taken in March, 2009 during "leaf-off" condition, show from ground level the extensive area of mature trees within which the proposed structure is to be nestled. [Petitioners' Exhibit CBA 6A-C] Using Petitioners' photographs Mr. Doak described – looking south, from the open field area on Petitioners' property – the extensive screening of Petitioners' property. This view of the bare, mature trees is what the Protestant would see from his house. [Petitioners' Exhibit CBA 6 E-F] According to Mr. Doak, the Protestant's view would be further obscured when the trees are in full leaf. Finally, using the location plan and photos introduced before the Zoning Commissioner [Petitioners' Exhibits CBA 7 & 8, respectively] Mr. Doak described views from and of the subject property during the spring/summer "leaf-on" period.

Karen Lange who, together with her husband, owns the subject property testified that when they purchased the property in March, 1999, the home and pool were already constructed and the septic system installed. Since acquiring the subject property the Owners have not made any alteration to the slopes which exist in the rear yard. Ms. Lange

⁴ Petitioners' Exhibit CBA-5

described, now that their three children are older and are having friends from school and church over to their home, they need additional space for recreation and entertaining. Also, as noted by Ms. Lange, her children have grown and are now able to help care for the land necessitating the requirement for additional space to store the land equipment. The Petitioners engaged an architect to design the proposed accessory structure to address that current need and so that it could later be converted solely for agricultural/farm use, but without a second floor or any bedrooms. Ms. Lange was unequivocal that there would be no commercial or business activity conducted from the subject property.

Ms. Lange described the need for a small kitchen or kitchenette and bathroom (water closet/toilet) in the accessory structure so that her children and their friends would not have to climb the hill to the Lange home. The proposed outdoor shower would be used by the children and their friends after playing sports in the upper, cleared field area or before/after use of the pool. Ms. Lange noted that she directed her architect to design the accessory building to a height that could be easily converted to a horse/agricultural and storage barn, without major structural renovations such as roof removal and replacement. The accessory structure will not be finished on the interior like the main house; the floors are to be concrete with drains in the floor to permit them to be washed down, an important feature for future agricultural use. The understanding of Ms. Lange is that if the subject property had already been improved with a horse/agricultural and storage barn at the time she and her husband purchased the property, it could have been converted as desired by the

Owners without difficulty or further approval. Notwithstanding Protestant's counsel's attempt to show that businesses were being operated from the Lange home, Ms. Lange testified without contradiction that no commercial or business activities were being conducted. The clear testimony of Ms. Lange was that the corporate filing documents introduced by Protestant's counsel [Protestant's Exhibits CBA 6A&B; and 7A-C] are incorrect if they are credible evidence of any business activity being conducted on the subject property.

On further cross-examination, Ms. Lange testified that placement of stone in a swale area on the subject property was done with the permission and under the direction of representatives of the Department of Environmental Protection and Resource Management. The Langes have engaged the services of an adjoining neighbor to clean up the subject property, including the shredding of dead trees that had fallen. In response to why the proposed accessory structure could not be constructed with a flat roof, Ms. Lange was clear about planning for the future, potential agricultural use of the structure and that she and her family do not live in an area of flat roofed buildings.

Ms. Lange indicated that she and her husband had reviewed the Order of the Zoning Commissioner and the conditions imposed⁵, including the recording of a restrictive

⁵ The Zoning Commissioner, in addition to the restrictive covenant, required that the proposed accessory structure: remain residential in use; not be converted to a second dwelling or apartment and contain no living quarters; no use of high intensity
(continued...)

covenant among the Land Records. No appeal or cross-appeal was taken of those conditions as the Petitioners accepted them and found them reasonable.

The Protestant:

W. Craig Kenney, the appellant/Protestant, described his dislike of the proposed accessory structure. Mr. Kenney alleges that he can see cars on Glencoe Road, although he was not specific as to whether he was referencing in the area of Shermantine Lane (near Petitioners' driveway) or closer to his home where Glencoe Road turns to the west and runs in front of the William and Ann Hach property. Mr. Kenney complained of removal of vegetation on the Lange property, however, did not offer any proof of wrongdoing; rather, his focus was on his dislike of the proposal. Mr. Kenney is unaware of the County's official sound policy that trees do not attenuate noise and expressed his concern that if any trees were removed on the Lange property noise from the Lange children and their friends could be heard on his property.

Mr. Kenney testified that he had no opposition to agricultural structures, but felt that the proposed accessory structure was inappropriate and too close to the road. Mr. Kenney also testified that during the winter or "leaf-off" months he would be able to see through the trees on the subject property [Petitioners' Exhibit CBA 6E&F] and see the proposed

⁵(...continued)

lighting on the north side that would interfere with Protestant's home and yard area; and that a representative of the Code Enforcement Division must have reasonable access to ensure compliance. *See*, Petitioners' Exhibit CBA-4 at pages 5-7.

structure. Mr. Kenney failed to identify how his view would change if the proposed structure were used for animal and agricultural purposes from the outset.

Mr. Kenney, on cross-examination, admitted that his own, accessory pool house had bath facilities and a small kitchen/prep area. Most of the photographs that were introduced through Mr. Kenney, were of the subject property, periodic activities conducted to clean up that property and its undergrowth, areas that Mr. Kenney felt were existing streams and, the mowed area south of his property used by the Lange children for soccer, lacrosse and other recreational activities. Mr. Kenney offered no evidence regarding the existing constraints on the subject property prohibiting the proposed accessory structure from being located in the rear yard.

ARGUMENT

The Existing Constraints of the Subject Property Create a Disproportionate, Negative Impact of the Baltimore County Zoning Regulations on the Subject Property, Denying the Owners the Right to a Legislatively Permitted Accessory Use

The subject property is zoned RC-2 and is 11 +/- acres in size. Section 400.1 of the BCZR mandates that all accessory structures “shall be located only in the rear yard and shall occupy not more than 40% thereof.” [Emphasis supplied.] Notwithstanding its size, the area available for accessory structures on the subject property is minimal, at best.

A review of the Plan [Petitioners’ Exhibit CBA-2] supports Mr. Doak’s uncontradicted testimony that the ‘rear yard’ of the subject property was reduced significantly by the County’s required dedication of road widening for Glencoe Road

(approximately 0.86 acres) and the revertible slope easement which borders the widening area, further encroaching into the rear yard. The existing, County approved septic reserve area, combined with the pre-existing in-ground pool and extreme topography, a significant portion of which contains slopes of 25% grade or greater, renders the 'rear yard' of the subject property unusable for an accessory structure. The topographic constraints are shown clearly in the photograph in evidence as Protestant's Exhibit CBA-2.

Mr. Doak's expert testimony, which remains uncontradicted, is that due to the size, shape and previously described constraints the subject property is unique – those inherent characteristics/constraints are not shared by other properties in the area. *See, Cromwell v. Ward*, 102 Md. App. 691, 710 (1995); *Trinity Assembly of God v. People's Counsel*, 407 Md. 53, 81 (2008).

Much ado was made by the Protestant that the proposed accessory structure is not for agricultural purposes [at least initially] and therefore is not even a permitted use. The BCZR define a variety of uses which are permitted as of right:

Section 1A02.2A.2: Dwellings, one-family detached.

Section 1A02.2A.12: Accessory uses or structures, **including, but not limited to the following** – uses a. through h.

Subparagraph g of this section includes: Swimming pools, tennis courts, garages, utility sheds, satellite receiving dishes (subject to Section 429) or other accessory structures or uses (subject to the height and area provisions for buildings as set forth in Section 400)." [Emphasis supplied.]

The County Council did not limit accessory uses to only those set out in BCZR § 1A02.2A.12.a. through h. Rather, the legislative body specified that accessory uses included those in subparagraphs a. through h., together with other uses that fit the definition of accessory use. The pertinent provisions of the BCZR definition of ‘accessory use’ are detailed in the table below together with the aspects of the proposed use by the Petitioners:

BCZR § 101 Definition of Accessory Use: A use or structure which:	PETITIONERS’ PROPOSED USE
(a) is customarily incident and subordinate to and serves a principal use or structure;	will be used by the Petitioners’ family for recreation and entertaining in lieu of the family home
(b) is subordinate in area, extent or purpose to the principal use or structure;	Petitioners’ home is approx. 3351 sq.ft. and proposed accessory structure is approximately 1300 sq.ft.; no bedrooms or living quarters permitted
(c) is located on the same lot as the principal use or structure served;	located on the same lot, in front of the Petitioners’ home
(d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served;	Petitioners’ children will use the additional area for recreation and entertaining; provides storage for equipment used in the maintenance of the land

The definition of “Accessory Use” also provides that “[a]n accessory building, as defined above, shall be considered an accessory structure.” BCZR § 101 That same section defines ‘accessory building’ as “one which is subordinate and customarily

incidental to and on the same lot with a main building.” Clearly, the proposed accessory structure/building is a **use permitted as of right** by the BCZR. The testimony before the Board was that many other properties in the area have accessory structures/uses.⁶ The Protestant, Mr. Kenney, has an accessory pool house, complete with bath and small area where food/drinks can be prepared. While BCZR § 1A01.2B.9.h specifically permits “swimming pools”, nowhere in the BCZR is a “pool house” (like the one the Protestant enjoys) even mentioned. Presumably, a pool house is an accessory use/structure that is permitted as of right in the same manner as the accessory use/structure proposed by the Petitioners.

The difference among the subject property owned by the Petitioners and that of the Protestant or other properties in the area is that the subject property is disproportionately impacted by the BCZR requirement that accessory uses be in the rear yard. The uniqueness of the constraints on the subject property is exactly the condition described in the *Cromwell* and *Trinity* cases.

Section 307.1 of the BCZR sets forth the legal tests which must be met before any variance can be granted:

- ▶ are there special circumstances or conditions in existence that are peculiar to the land or structure which is the subject of the variance request?

⁶ Petitioners, through Mr. Doak, produced evidence of a similar, accessory building on property on Beaver Dam Road permitted after variance relief was obtained by Mr. Doak on behalf of the owners of that property. [Petitioners Exhibit CBA-9]

- ▶ would strict compliance with the requirements of the BCZR result in practical difficulty or unreasonable hardship?
- ▶ will any increase in residential density, beyond that otherwise allowable by the BCZR, result if the requested relief is granted?
- ▶ can the requested relief be granted so that the spirit and intent of the BCZR will be observed, and public health, safety and welfare secured?

Additional, “common law” requirements for the granting of variances have been developed over the years by the appellate courts in this state. In consideration of an “area” variance, as is being requested by the Petitioners in this case, the Court of Special Appeals has held that the Petitioners must show that:

- ▶ strict compliance with the BCZR would unreasonably prevent use of the subject property for a permitted purpose and the required conformity with the BCZR would be unnecessarily burdensome
- ▶ that the relief requested will do substantial justice to the petitioners as well as other property owners in the district
- ▶ that the relief requested is the minimum relief necessary to give substantial relief to the petitioners as well as other property owners in the district

Anderson v. Board of Appeals of Chesapeake Beach, 22 Md. App. 28, 39 (1974) [adapted to reference the BCZR]

Each of these factors was addressed by Mr. Doak in his expert testimony or Ms. Lange as one of the Owners. The “special circumstances or conditions” have been elaborated on extensively above. Strict compliance with the requirements of the BCZR would result in real practical difficulty in that the Petitioners would be prevented from

using the subject property for a legislatively permitted purpose – an unnecessary burden that the Petitioners should not be forced to endure.

The Petitioners did not file any cross-appeal to challenge the conditions placed on the relief by the Zoning Commissioner because they found them reasonable and tailored to prevent uses that are not intended by the Petitioners. The Protestant argued in his post-hearing memorandum to the Zoning Commissioner that the Petitioners' proposed use would be tantamount to a second dwelling on the subject property, in excess of available density. There are no living quarters in the proposed accessory structure/use thus, there is no increase in residential density on the subject property resulting from approval of the requested relief.

The Petitioners submitted letters of support from many of their neighbors [Petitioners' Exhibit CBA-10], other than Mr. Kenney, the Protestant. Many of those supporting neighbors live on lots smaller than that of the Petitioners and certainly smaller than the 29 acres on which the Protestant lives. The requested relief will allow justice to alleviate the disproportionate impact of the BCZR on the subject property without denying justice to other property owners in the district. There is no lesser relief that the Petitioners can request; they are stuck with the significant constraints that existed on the subject property when they purchased it. The overwhelming evidence was that the requested relief would have no impact whatsoever on the public health, safety or welfare and that it fit squarely within the spirit and intent of variances allowable under the BCZR. In fact, Ms. Lange noted that it was far more preferable to have her children and their friends from

school and/or church in a quality, safe environment on the subject property rather than hanging out at a mall or shopping center.

The Petitioners have met their burden. The Protestant's case consisted of assertions of alleged wrongdoing regarding tree removal, property clean-up, DEPRM approved deposition of stone and unsupported fears that Mr. Kenney will be able to see the proposed accessory structure from a distance of nearly 0.12 miles, through a significant and mature forest of trees.

The Requested Variance to BCZR § 400.3 Is Necessary to Permit the Proposed Accessory Structure to be Used for Animal/Agricultural Use in the Future

Additional variance relief has been requested to permit the proposed accessory structure to be 25 feet in height in lieu of the required 15 feet. As Ms. Lange testified, the initial use of the proposed accessory structure is a place for recreation/entertainment for her children, but the structure has been designed to be converted to an animal/agricultural barn in the future. Had the structure been proposed originally as an animal/agricultural barn, it would fall within the height exception for accessory buildings provided by BCZR § 300.1A, which provides in pertinent part that:

The height limitations of these regulations **shall not apply to barns and silos, grain elevators or other accessory agricultural buildings**
[Emphases supplied.]

Thus, the same structure for agricultural use could have been erected without regard to height limitations.

It would be economic waste to require the proposed accessory structure to be

constructed to a maximum of 15 feet in height and then requiring it to be retrofitted in the future by raising the roof to permit agricultural/animal use. Both Ms. Lange and Mr. Doak testified how the proposed accessory structure – as presently designed – could be used in the future for agricultural/animal uses without major cost or reconstruction. However, Mr. Doak noted that holding the proposed structure to 15 feet in height now would preclude its future use as a barn without significant cost to ‘raise the roof’.

At the Board’s hearing, legal counsel for Mr. Kenney attempted to elicit from Ms. Lange that the unique constraints of the subject property causing the BCZR to impact it disproportionately were known when the Petitioners purchased it. Ms. Lange candidly countered the question when she testified that the impact of the BCZR was not known until 2008 (approximately 9 years after the subject property was purchased) when a permit application for the proposed accessory structure was filed. Even had the Petitioners been aware before they purchased the subject property of the constraints justifying the need for a future variance, that knowledge would not be a basis to deny the requested relief. *Richard Roeser Professional Builder, Inc. v. Anne Arundel County, Maryland*, 368 Md. 294, 314 (2002); *Lewis v. DNR*, 377 Md. 382, 422 (2003)

Had the Petitioners obtained approval for the proposed accessory structure as an agricultural barn and then converted it to recreational/entertainment use for their children, there – most likely – would have been no problem or issue. However, had anyone opposed the conversion from agricultural use, variance relief would have been necessary. In that event, it is likely that those in opposition would have argued that the variance should be

denied based on self-inflicted hardship. *See, Marion v. Mayor and City Council of Baltimore*, 215 Md. 206 (1957); *AD + Soil, Inc. v. County Comm'rs.* 307 Md. 307 (1986) “[P]ractical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted.” *Cromwell* at 722.

The self-inflicted bar to variance relief has no basis in the instant case. The practical difficulty faced by the Petitioners is singularly and uniquely caused by existing conditions unrelated to any action by or on behalf of the Petitioners. The requested variance from the height restriction is similarly not affected by any self-created condition. The Petitioners only desire to construct an accessory structure that has a roof compatible with other roofs in the area that does not require modification in the future to covert the structure into use for animals or agricultural use.

SUMMARY and CONCLUSION

This really is a straightforward and non-complex case. The County Council has legislated that accessory uses, accessory structures and accessory buildings are permitted as of right in the RC-2 zone. The Petitioners and all other owners of RC-2 zoned property are entitled to such use/structure, provided it is in the rear yard. The Petitioners, however, face a unique set of circumstances, differentiating the subject property from other properties in the area and rendering it practically difficult if not prohibiting all together the rear yard for such permitted use. None of the conditions that cause the requirements of the BCZR to impact Petitioners’ property more harshly or disproportionately were caused by or on behalf of the Petitioners. Without a grant of the requested relief, the permitted use

becomes a prohibited use due to the very factors which justify the relief.

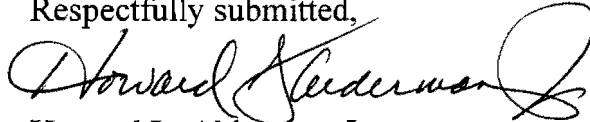
An agricultural or animal barn could be constructed on the subject property and would be completely exempt from the height limitations of the BCZR. The proposed accessory structure has been designed for future use as just such an agricultural barn. The failure to grant the requested relief from the height limitation for non-agricultural accessory buildings is unwarranted and in the future will result in the needlessly required destruction of the roof so that a taller roof can be installed to accommodate agricultural uses.

The conditions imposed by the Zoning Commissioner merely prohibit uses in the proposed accessory structure that were never intended by the Petitioners. Those conditions should be applied by this Board in the granting of the requested relief.

The Protestant has failed to produce any credible evidence or opposition to the substantial, factual basis produced by the Petitioners in support of the requested relief. The Board need only review the photographs and other exhibits introduced by the Protestant, the majority of which have nothing whatsoever to do with the relief requested. Moreover, the Protestant enjoys the use of a non-agricultural accessory building [which purportedly meets the requirements of the BCZR], including bathroom facilities, yet he seeks to prohibit the Petitioners from doing likewise in the only location available to them – the ‘technical’ front yard of their property.

For all of the foregoing reasons, the requested relief, as conditioned and limited by the Zoning Commissioner for Baltimore County should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Howard L. Alderman, Jr.", with a large, stylized flourish at the end.

Howard L. Alderman, Jr.

Levin & Gann, P.A.

8th Floor, Nottingham Centre

502 Washington Avenue

Towson, Maryland 21204

410.321.0600 [voice]/410.296.2801 [fax]

Attorneys for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of April, 2009, one copy of the foregoing Petitioners' Post-Hearing Memorandum, was mailed, postage prepaid, First Class United States Mail to the following:

Michael P. Tanczyn, Esquire
606 Baltimore Avenue, Suite 106
Towson, Maryland 21204

and

Peter Max Zimmerman, Esquire/
Carole S. Demilio, Esquire
People's Counsel for Baltimore County
The Jefferson Building
105 W. Chesapeake Avenue, Suite 204
Towson, MD 21204

and

Mr. and Mrs. Robert W. Lange
1718 Glencoe Road
Glencoe, MD 21152

and

Bruce E. Doak, PLS
Gerhold, Cross & Etzel, Ltd.
320 East Towsontown Boulevard, Suite 100
Towson, MD 21286


Howard L. Alderman, Jr.

From: Rebecca Wheatley
To: Oyinloye, Tunde
Date: 03/06/2009 1:27 PM
Subject: Aerial

I need to get an aerial with property owner's name and property lines for 1718 Glencoe Road. Owners are Robert & Karen Lange. I would like to have the aerial by next Friday, March 13th. Please let me know if that will be a problem.

The SDAT link is :

http://sdatcert3.resiusa.org/rp_rewrite/details.aspx?County=04&SearchType=STREET&AccountNumber=10%20%201900004852

PM2
CIR

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
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A PROFESSIONAL ASSOCIATION
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8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

February 4, 2009

County Board of Appeals for Baltimore County
Attn: Ms. Theresa R. Shelton, Administrator
The Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

**VIA TELEFAX &
REGULAR MAIL**

RE: ***Robert W. and Karen O. Lange, Petitioners/Owners***
1718 Glencoe Road
Case No. 2008-0528-A
Opposition to Request for Postponement

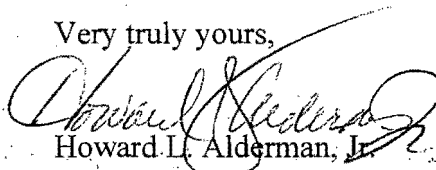
Dear Ms. Shelton:

I have received a copy of Mr. Tanczyn's request, on behalf of his client Mr. Kenney, that the hearing on the above-referenced appeal scheduled for March 17, 2009 be postponed. My clients, the Petitioners in this matter oppose this postponement.

Without comment on Mr. Kenney's unfortunate injury described by Mr. Tanczyn, the fact that his client chooses to winter in Florida and cannot fly due to his injury (although he can apparently travel by car to Florida, arguably a longer trip) is certainly not a good and sufficient reason to postpone these proceedings. If Mr. Kenney can drive to Florida he certainly should be able to drive back to Maryland for the scheduled hearing. This is not a complicated request and, absent numerous witnesses to be called on behalf of Mr. Kenney, should not take more than one (1) hearing day to complete.

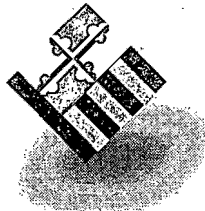
For all of the foregoing reasons, the Petitioners request that the postponement be denied. Should you or any member of the Board desire additional information in this regard, please do not hesitate to contact me.

Very truly yours,


Howard L. Alderman, Jr.

HLA/gk

c: Mr. and Mrs. Robert W. Lange
Michael P. Tanczyn, Esquire
Peter Max Zimmerman, People's Counsel



BALTIMORE COUNTY
MARYLAND

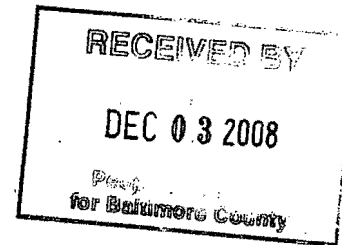
JAMES T. SMITH, JR.
County Executive

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

Robert Lange
Karen Lange
1718 Glencoe Road
Glencoe, MD 21152

Dear Mr. & Mrs. Lange:

RE: Case: 2008-0528-A, 1718 Glencoe Road



Please be advised that an appeal of the above-referenced case was filed in this office on August 27, 2008 from Michael Tanczyn. 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,

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Bruce Doak, GC & E, 320 E. Towsontown Blvd., Ste. 100, Towson 21286
W. Craig Kenney, 1716 Glencoe Road, Glencoe 21152
Michael Tanczyn, 606 Baltimore Avenue, Ste. 106, Towson 21204

APPEAL

Petition for Variance
1718 Glencoe Road
N/s Glencoe Road at its intersection w/Shermantine Lane
10th Election District – 3rd Election District
Legal Owners: Robert & Karen Lange

Case No.: 2008-0528-A

Petition for Variance (May 9, 2008)

Zoning Description of Property

Notice of Zoning Hearing (June 17, 2008)

Certification of Publication (Jeffersonian – July 8, 2008)

Certificate of Posting (July 1, 2008) by Bruce Doak

Entry of Appearance by People's Counsel (June 2, 2008)

Petitioner(s) Sign-In Sheet – One Sheet

Protestant(s) Sign-In Sheet - None

Citizen(s) Sign-In Sheet – One Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibit

1. Amended Site Plan
2. Plan to accompany photographs
3. Photographs (A thru I)
4. Aerial Photo of Area - Adjacent

Protestants' Exhibits:

1. Memorandum of Protestant – July 30, 2008

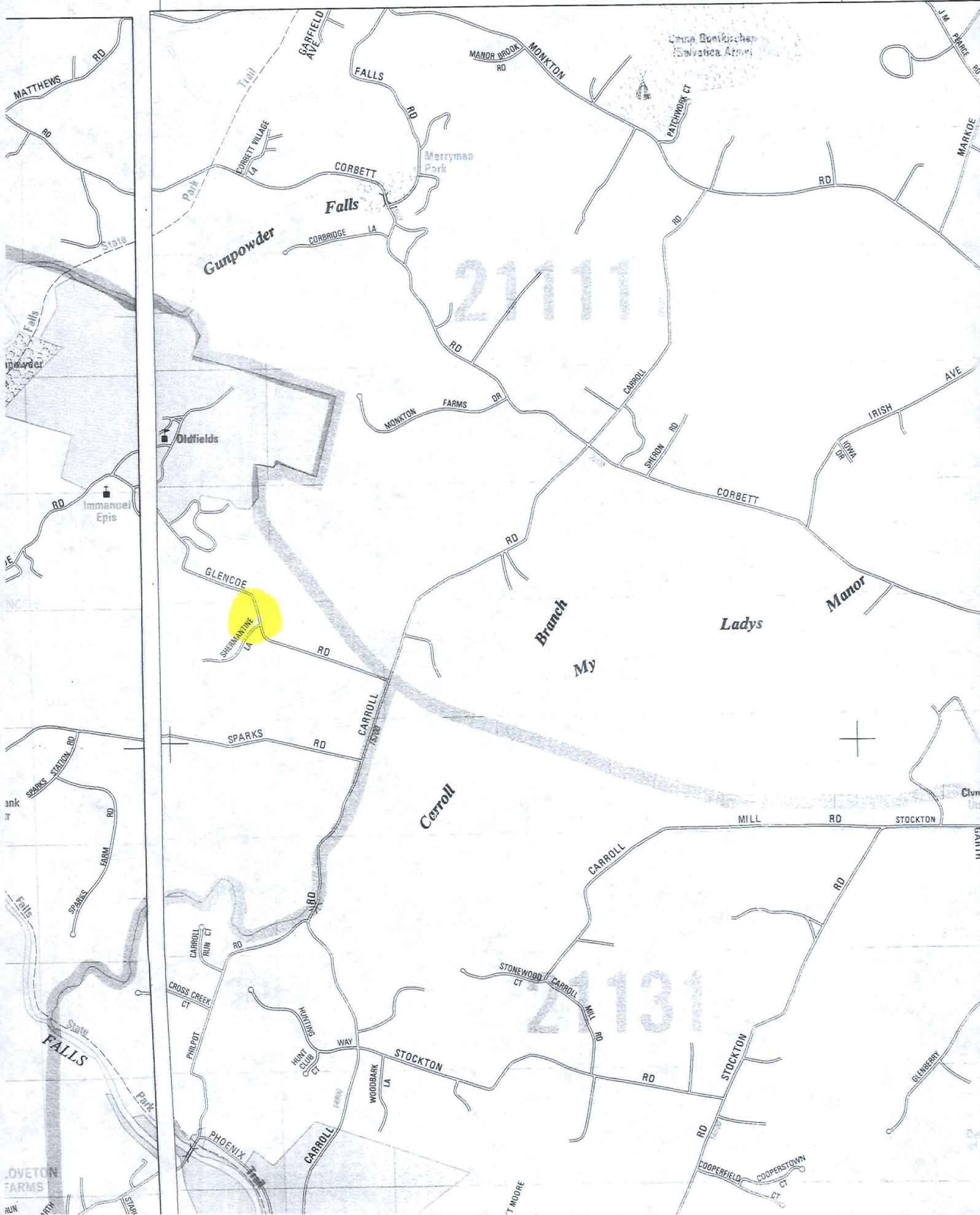
Miscellaneous (Not Marked as Exhibit) - None

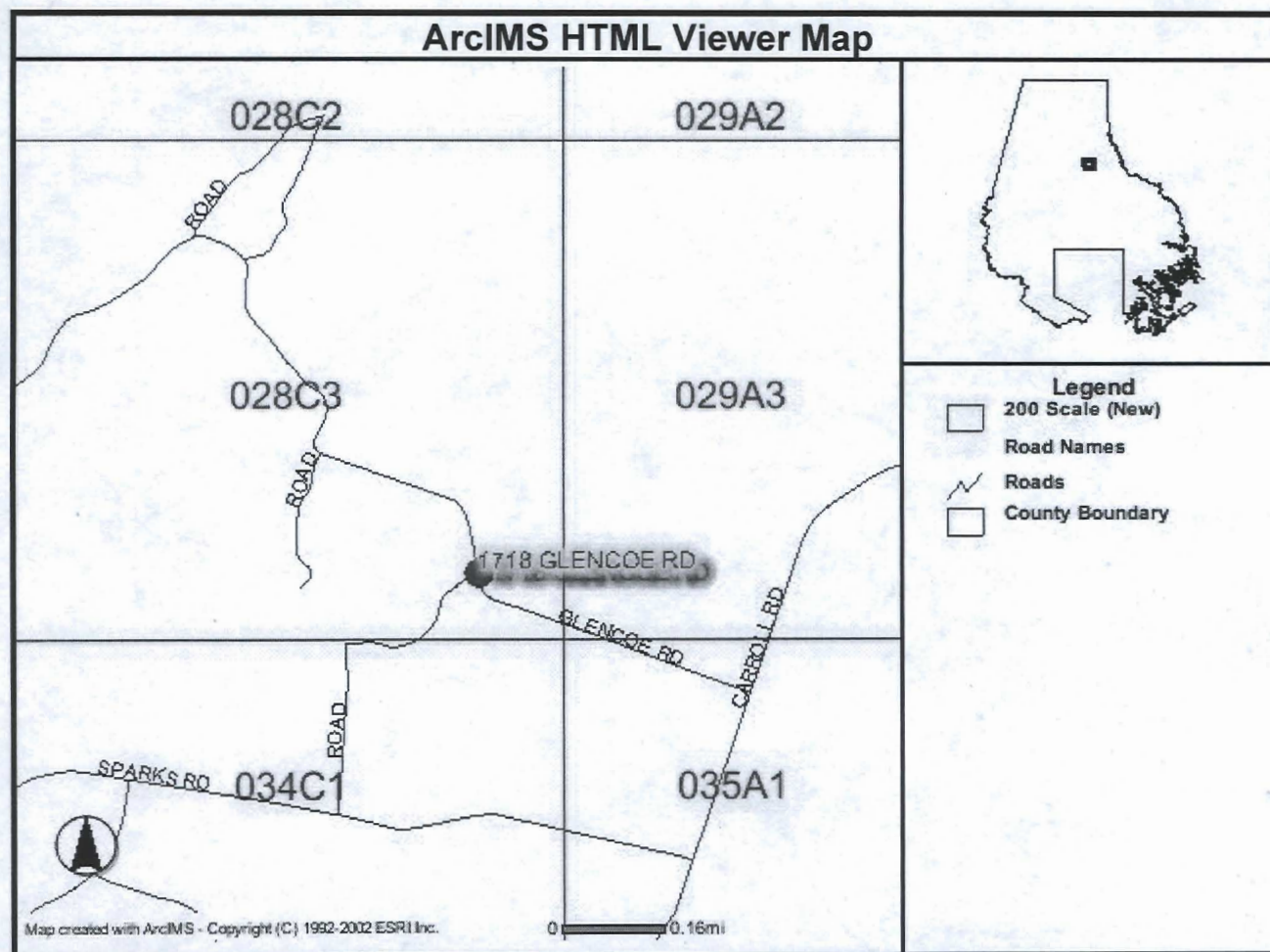
Zoning Commissioner's Order (August 1, 2008 - GRANTED)

Notice of Appeal received on August 27, 2008 from Michael Tanczyn for Craig Kenney

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Mr. & Mrs. Lange
Mr. Bruce Doak
W. Craig Kenney
Michael Tanczyn

date sent December 1, 2008, klm



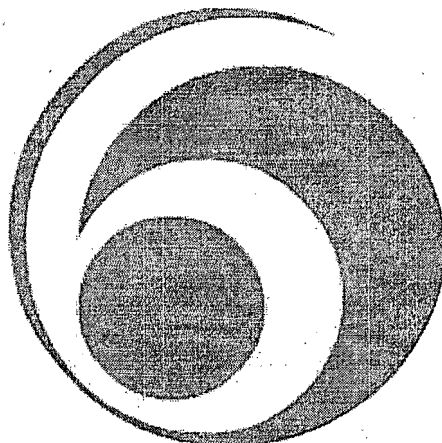


Stream bed – Looking north from Glencoe Road and onto Lang's property



Stream – Looking south from Glencoe Road





Monotype and Six Red Marbles announce the combined companies will re-brand under the Six Red Marbles name.

We look forward to working with you as Six Red Marbles now.

You will be redirected to the Six Red Marbles web site. If you don't redirect automatically, you may click [here](#).

Return to
Robert W. Lange
Karen O. Lange
1718 Science Road
Sparks, MD 21152

0013598 151

OPF Title Services, L.L.C.
22 W. Padonia Road, Suite B-328
Timonium, MD 21093
410-252-1208

2995182R

THIS DEED, Made this 1st day of March, 1999, by and between **Robert B. McFadden and Marlys S. McFadden**, husband and wife, parties of the first part, Grantors, and **Robert W. Lange and Karen O. Lange**, husband and wife, parties of the second part, Grantees.

WITNESSETH, that in consideration of the sum of Four Hundred Seventy Thousand and 00/100 DOLLARS (\$470,000.00) 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 parties of the second part, as tenants by the entireties, their assigns, the survivor of them, 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:

SEE SCHEDULE A ATTACHED HERETO AND MADE A PART HEREOF.

BEING the same property which by Deed dated June 12, 1985 and recorded among the Land Records of Baltimore County in Liber No. 6933, folio 706, was granted and conveyed by Gordon J. Zorn and Christine L. Zorn, his wife, unto Robert B. McFadden and Marlys S. McFadden, husband and wife, 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 parties of the second part, as tenants by the entireties, their assigns, the survivor of them, their 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 A. Wildesen
Carol Ann Wildesen, Esquire

CORPORATE CHARTER APPROVAL SHEET

**** KEEP WITH DOCUMENT ****

DOCUMENT CODE 40 BUSINESS CODE _____

Close _____ Stock _____ Nonstock _____

P.A. _____ Religious _____

Merging (Transferor) _____

Surviving (Transferee) _____



ID # M07726920 ACK # 1000361989234681
LIBER: 800599 FOLIO: 1273 PAGES: 0003
MONOTYPE ACQUISITION, LLC

01/06/2004 AT 02:57 P M0 # 0000832310

New Name _____

FEES REMITTED

Base Fee: 100

Org. & Cap. Fee: _____

Expedite Fee: 70

Penalty: _____

State Recordation Tax: _____

State Transfer Tax: _____

1 Certified Copies Copy Fee: 23

Certificates _____

Certificate of Status Fee: _____

Personal Property Filings: _____

Other: _____

TOTAL FEES: 193

Credit Card _____ Check ☒ Cash _____

Documents on _____ Checks _____

Approved By: 14

Keyed By: _____

COMMENT(S):

Change of Name
Change of Principal Office
Change of Resident Agent
Change of Resident Agent Address
Resignation of Resident Agent
Designation of Resident Agent
and Resident Agent's Address
Change of Business Code

Adoption of Assumed Name

Other Change(s)

Code 063
Attention: Julie Wilhelm

Mail to Address:

Stamp Work Order and Customer Number HERE

CUST ID: 0001279021
WORK ORDER: 0000832310
DATE: 01-06-2004 02:57 PM
PMT. PAID: \$193.00

CORPORATE CHARTER APPROVAL SHEET

EXPEDITED SERVICE

** KEEP WITH DOCUMENT **

DOCUMENT CODE 41A BUSINESS CODE _____

W 7726 920

Close _____ Stock _____ Nonstock _____

P.A. _____ Religious _____

Merging (Transferor) _____

Surviving (Transferee) _____



1000361991941265

ID # W07726920 ACK # 1000361991941265
LIBER: 000860 FOLIO: 0521 PAGES: 0002
MONOTYPE, LLC

MAIL
BACK

09/26/2005 AT 09:44 A WD # 000118115

New Name

monotype, LLC

FEES REMITTED

Base Fee:	<u>100</u>	☒ Change of Name
Org. & Cap. Fee:		☐ Change of Principal Office
Expedite Fee:	<u>110</u>	☐ Change of Resident Agent
Penalty:		☐ Change of Resident Agent Address
State Recordation Tax:		☐ Resignation of Resident Agent
State Transfer Tax:		☐ Designation of Resident Agent
<u>2</u> Certified Copies		☐ and Resident Agent's Address
<u>2</u> Certificates		☐ Change of Business Code
Copy Fee:	<u>23</u>	☐ Adoption of Assumed Name
Certificate of Status Fee:	<u>21</u>	☐ Other Change(s)
Personal Property Filings:		
Mail Processing Fee:	<u>5</u>	
Other:		
TOTAL FEES:	<u>259</u>	

Credit Card ☒ Check _____ Cash _____

Code _____

Documents on _____ Checks

Attention: _____

Approved By: Red 13

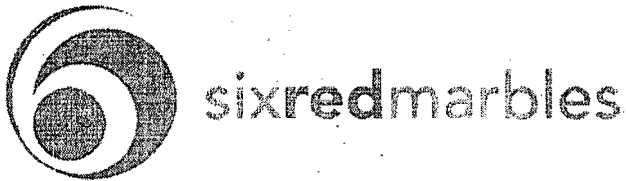
Mail: Name and Address

Keyed By: _____

COMMENT(S):

Richard Bison
3600 Clipper Mill Rd
310
Balt Md 21211

CUST ID: 0001675077
WORK ORDER: 000118115
DATE: 09-27-2005 08:30 PM
AMT. PAID: \$259.00



Monotype and Six Red Marbles Re-brand Under One Name

New company's key to transforming education: fun ideas and serious solutions.

Monotype and Six Red Marbles announced today that the combined companies will re-brand under the Six Red Marbles name.

Since merging in 2008, the new combined organization has successfully integrated the legacies that made the individual firms so well-respected: Monotype's nearly 90-year history of excellence in print publishing, and Six Red Marbles' powerful reputation for developing high-quality creative educational solutions with technology.

This re-branding initiative is symbolic of the Company's next stage of evolution. CEO Jacques Driscoll said, "The new Six Red Marbles plans to invest, grow, and become a leader in the industry. We believe in using our creativity to find smart and efficient solutions for problems that our customers are facing. It's all summed up in our new slogan: 'fun ideas and serious solutions'."

President Sarah White agrees. "Our clients continue to look for new ways to create and deliver education. That won't work if silos remain around editorial content, print production, and technological development. We're creating a model without these boundaries. This new model allows for more creativity and versatility through the entire process, from design, through development, to delivery."

The now-expanded Six Red Marbles will continue to differentiate itself with this new approach and a renewed focus on pioneering solutions for emerging educational technologies. Continued investment in staff and expertise will also allow Six Red Marbles to better provide solutions for the entire range of educational products, with an efficient, smart, fun, and versatile approach.

A new website launched today at www.sixredmarbles.com further describes this evolution of the company.

About Six Red Marbles

With offices in Cambridge, Massachusetts and Baltimore, Maryland, Six Red Marbles is an award-winning provider of educational solutions serving the K-12 and College markets. Six Red Marbles is known for its passion for education and for delivering creative and quality products to its clients. In 2008 Six Red Marbles merged with Baltimore-based Monotype, backed by private equity firm Calvert Street Capital Partners. The combination of Six Red Marbles' innovative approach to content and technology with Monotype's widely recognized page composition expertise and experienced, progressive editorial staff results in a forward-thinking, no-boundary company ready to deliver education to all markets.

Westlaw Delivery Summary Report for COUNSELPEOPLE'S

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949 A.2d 639
 405 Md. 43, 949 A.2d 639
 (Cite as: 405 Md. 43, 949 A.2d 639)

H

Court of Appeals of Maryland,
 Betty GARNER, et al.

ARCHERS GLEN PARTNERS, INC., et al.
 No. 126, Sept. Term 2007.

June 9, 2008.

Background: Citizens petitioned for review of planning board's approval of developer's preliminary subdivision plan. The Circuit Court, Prince George's County, C. Philip Nichols, Jr., J., 2004 WL 5174929, affirmed. Citizens appealed. The Court of Special Appeals vacated circuit court's judgment and directed that case be remanded to planning board. On remand, planning board again approved the plan. Citizens petitioned for review. The Circuit Court, 2006 WL 4385952, remanded case to planning board for further consideration and findings. Developer and planning commission appealed. The Court of Special Appeals, 176 Md.App. 292, 933 A.2d 405, reversed and remanded with instructions. Citizens petitioned for a writ of certiorari.

Holdings: The Court of Appeals, Harrell, J., held that:

- (1) Court of Appeals would not address issue of planning commission's standing;
 - (2) Court of Special Appeals' discussion of potential legal effect to be accorded county approved general plan in the subdivision process was not law of the case; and
 - (3) Court of Appeals would not address issue not raised in petition for certiorari.
- Judgment of Court of Special Appeals affirmed.

West Headnotes

- [1] **Appeal and Error** ¶843(1)
 30k843(1) Most Cited Cases
 An appellate court should use great caution in exercising its discretion to comment gratuitously on is-

ssues beyond those necessary to be decided.

[2] **Zoning and Planning** ¶743

414k743 Most Cited Cases
 Court of Appeals would not address issue not necessary to the outcome of case, of planning commission's standing to participate as a party in a judicial review of its decision approving a preliminary plan for a residential development, where issue of standing was not raised in the circuit court, and it was undisputed that one party on each side of the litigation had standing. Md.Rule 8-131(e).

[3] **Action** ¶13

13k13 Most Cited Cases

Where there exists a party having standing to bring an action, court shall not ordinarily inquire as to whether another party on the same side also has standing.

[4] **Appeal and Error** ¶174

30k174 Most Cited Cases

Court of Appeals ordinarily does not decide issues of standing not raised in the trial court.

[5] **Appeal and Error** ¶843(2)

30k843(2) Most Cited Cases

Court of Appeals ordinarily does not decide issues of standing where it is undisputed that one party on each side of the litigation has standing.

[6] **Zoning and Planning** ¶749

414k749 Most Cited Cases

Court of Special Appeals' discussion of the legal role of the recommendations of county approved general plan in the subdivision approval process, in opinion in a judicial review of planning board's approval of a preliminary subdivision plan, did not resolve finally the issue or preclude the parties from litigating the issue on remand and, thus, was not the law of the case; the Court of Special Appeals self-described its discussion of the general plan as "the above comments [i.e., dicta]," stating that the parties could litigate the issue on remand, and noted

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<http://web2.westlaw.com/print/printstream.aspx?sv=Split&prid=ia744d855000001203e26e9...> 03/25/09

949 A.2d 639
 405 Md. 43, 949 A.2d 639
 (Cite as: 405 Md. 43, 949 A.2d 639)

Page 2

that the issue was not "definitively resolve[d]."

[7] **Appeal and Error** ¶1097(1)

30k1097(1) Most Cited Cases

[7] **Appeal and Error** ¶1195(1)

30k1195(1) Most Cited Cases

The law of the case doctrine is one of appellate procedure.

[8] **Appeal and Error** ¶1195(1)

30k1195(1) Most Cited Cases

[8] **Courts** ¶99(1)

106k99(1) Most Cited Cases

Once an appellate court rules upon a question presented on appeal, litigants and lower courts become bound by the ruling, which is considered to be the law of the case.

[9] **Appeal and Error** ¶1097(1)

30k1097(1) Most Cited Cases

[9] **Appeal and Error** ¶1195(1)

30k1195(1) Most Cited Cases

Once Court of Appeals has ruled upon a question properly presented on an appeal, or, if the ruling be contrary to a question that could have been raised and argued in that appeal on the then state of the record, such a ruling becomes the law of the case and is binding on the litigants and courts alike, unless changed or modified after reargument, and neither the question decided nor the ones that could have been raised and decided are available to be raised in a subsequent appeal.

[10] **Courts** ¶99(1)

106k99(1) Most Cited Cases

The law of the case doctrine does not apply when one of three exceptional circumstances exists: the evidence on a subsequent trial was substantially different, controlling authority has since made a contrary decision on the law applicable to such issues, or the decision was clearly erroneous and would work a manifest injustice.

[11] **Courts** ¶99(1)

106k99(1) Most Cited Cases
 Dicta not adopted as a final determination may not serve as the binding law of the case.

[12] **Zoning and Planning** ¶744

414k744 Most Cited Cases

Court of Appeals would not address issue not raised in petition for certiorari, of whether general plan's growth objectives were binding on planning commission and applicants in subdivision review process, even though issue was briefed fully by all sides. Md.Rule 8-131(b).

**640 G. Macy Nelson (Paul N. De Santis, on the brief), Towson, for petitioners.

Megan M. Bramble (Teri Spradlin-Dahn of Rifkin, Livingston, Levitan & Silver, LLC, on the brief), Greenbelt, for respondents.

M. Andrew Green (George R.H. Johnson, on the brief), Upper Marlboro, for respondents.

Argued before BELL, C.J., HARRELL, BATTAGLIA, GRIENE, JOHN C. ELDRIDGE, (Retired, specially assigned) IRMA S. RAKER, (Retired, specially assigned) DALE R. CATHELI, (Retired, specially assigned), JJ.

**641 HARRELL, Judge.

*46 [1] This case recalls the admonition that an appellate court should use great caution in exercising its discretion to comment gratuitously on issues beyond those necessary to be decided. Heading that principle, we shall decide only the questions of law integral to the necessary holdings in the instant case, based on the questions properly presented in the successful petition for certiorari.

On 24 September 2002, Washington Management and Development Company, Inc. [FN1] applied to the Prince George's County Planning Board of the Maryland-National Capital Park and Planning Commission (the "Commission") for approval of a preliminary plan of subdivision (the "Preliminary Plan") for 47 residential lots [FN2] in Prince George's County. [FN3] *47 The proposed subdivi-

sion (the "Property") consisted of 236.45 acres along Bald Eagle Road and is located in the so-called planned Rural Tier of Prince George's County, as defined by the 2002 Prince George's County Approved General Plan (the "General Plan"). [FN4], [FN5] The **642 Planning Board approved the Preliminary *48 Plan at a hearing on 20 February 2003, subject to certain conditions not relevant here. The Planning Board expressed its approval and the bases therefore in a Resolution adopted on 27 March 2003.

FN1. Although it is somewhat unclear from the record before us, it appears that Archers Glen Partners, Inc., owned the land for which a subdivision application was filed that triggered this litigation. Archers Glen subsequently acquired Washington Management and Development Company's interest in the project. Archers Glen Partners is the party of record in this appeal and will be referred to as the "Developer" in this opinion.

FN2. The Preliminary Plan provides for the creation of 46 undeveloped residential lots and one lot to support an existing dwelling.

FN3. Maryland Code, (1957, 2003 Repl.Vol.) Article 28, § 7-115(a) requires that any proposed subdivision of land within the "regional district," as defined by Article 28, § 7-103, must be approved by the Commission. The Commission, in making its determinations, applies the subdivision regulations of Prince George's County for subdivision proposals in that County. Maryland Code, (1957, 2003 Repl.Vol.) Article 28, §§ 7-116, 7-117; see also *Coffey v. Md-Nat'l Capital Park & Planning Comm'n*, 293 Md. 24, 30-31, 441 A.2d 1041, 1044 (1982) (holding that the Commission acted properly in denying a proposed subdivision plan where the subdivision did not comply with the applicable

master plan where the subdivision regulations required such compliance).

FN4. The current General Plan parses the land mass of Prince George's County into three tiers: the Developed Tier, the Developing Tier, and the Rural Tier.

FN5. Although we shall not decide here any issue regarding the legal effect of the recommendations of the General Plan in the subdivision review process, the parties' apparent dispute over that point looms in the background. In an effort to address its "Smart Growth" policies, the Prince George's County Council, sitting as the District Council for that part of the regional district in the County, in 1998, created "Commission 2000," a 53-member panel, to study and recommend a new comprehensive growth management plan. The final product of the work of Commission 2000, the Biennial Growth Policy Plan, served as an interim planning document until the former General Plan could be amended companionably. "The approved General Plan builds on recommendations of the Biennial Growth Policy Plan adopted by the Prince George's County Council in November 2000 and prepared with the assistance of Commission 2000.... The preliminary General Plan was released in February 2002, adopted by the Planning Board in May 2002, and approved by the Prince George's County Council, sitting as the District Council, in October 2002." Foreword, 2002 Prince George's County Approved General Plan.

An "area master plan" differs from the General Plan. Master plans govern a specific, smaller portion of the County and are often more detailed in their recommendations than the countywide General Plan as to that same area. In the present case, the Property lies in Planning Area 87A, ad-

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783 A.2d 169
 366 Md. 158, 783 A.2d 169
 (Cite as: 366 Md. 158, 783 A.2d 169)

H

Court of Appeals of Maryland.
 Mary Pat MARZULLO et al.

v.
 Peter A. KAHL.

No. 10, Sept. Term, 2001.

Oct. 12, 2001.

Landowner sought review of county board of appeals' decision that his business of breeding, raising, and selling snakes and reptiles was not a farming activity and was not a permitted use in zone implementing resource conservation and watershed protection. The Circuit Court, Baltimore County, John Grason Turnbull II, J., reversed. Neighbor and county attorney appealed. The Court of Special Appeals, 135 Md.App. 663, 763 A.2d 1217, affirmed. Parties petitioned for a writ of certiorari. The Court of Appeals, Cathell, J., held that landowner's business was not a permitted use.

Reversed and remanded with directions.

West Headnotes

[1] Zoning and Planning 414 ⇨ 605

414 Zoning and Planning

414X Judicial Review or Relief

414X(C) Scope of Review

414X(C)1 In General

414k605 k. Decisions of Boards or Officers in General. Most Cited Cases

On appellate review of zoning case, Court of Appeals would take into consideration county board of appeals' expertise and would afford appropriate deference to board's decision that landowner's business of breeding, raising, and selling snakes and reptiles was not a farming activity and was not a permitted use in a residential resource conservation and watershed protection zone.

[2] Zoning and Planning 414 ⇨ 279

414 Zoning and Planning

414V Construction, Operation and Effect

414V(C) Uses and Use Districts

414V(C)1 In General

414k278 Particular Terms and Uses

414k279 k. Agricultural Uses;

Farm; Nursery; Greenhouse. Most Cited Cases
 Landowner's business of breeding, raising, and selling snakes and reptiles was not "commercial agriculture" within scope of zoning regulation's definition of "farm," and thus, it was not a permitted use in zone implementing resource conservation and watershed protection; legislative intent suggested that drafters of regulation intended "animal husbandry" aspect of "commercial agriculture" to relate to production and care of domestic animals, and landowner's business involved wild animals.

[3] Statutes 361 ⇨ 174

361 Statutes

361VI Construction and Operation

361VI(A) General Rules of Construction

361k174 k. In General. Most Cited Cases

Courts do not set aside common experience and common sense when construing statutes.

[4] Statutes 361 ⇨ 181(2)

361 Statutes

361VI Construction and Operation

361VI(A) General Rules of Construction

361k180 Intention of Legislature

361k181 In General

361k181(2) k. Effect and Con-

sequences. Most Cited Cases
 Absurd statutory constructions are to be avoided.

[5] Zoning and Planning 414 ⇨ 465

414 Zoning and Planning

414VIII Permits, Certificates and Approvals

414VIII(D) Effect of Determination; Revocation

414k465 k. Vested or Property Rights.



IN RE: PETITION FOR VARIANCE
N/S Glencoe Road at its Intersection
w/Shermantine Lane
(1718 Glencoe Road)

10th Election District
3rd Councilmanic District

Robert W. Lange, *et ux.*

Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No.: 2008-0528-A

*

* * * * *

APPEAL

DEAR MR. COMMISSIONER:

Please note an appeal to the Board of Appeals to Baltimore County from the Commissioner's Decision in the above case rendered August 1, 2008. This appeal is filed on behalf of my client, W. Craig Kenney, who resides at 1716 Glencoe Road, Glencoe, Maryland 21152-9324. Mr. Kenney appeared as a Protestant in the above case and intends to participate in the Appeal before the Board of Appeals.

Respectfully Submitted,

RECEIVED

AUG 27 2008

[Signature]

[Signature]

MICHAEL P. TANCZYN, Esquire

606 Baltimore Avenue

Suite 106

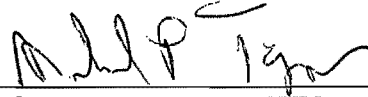
Towson, Maryland 21204

410-296-8823

Attorney for W. Craig Kenney, Protestant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of August, 2008, a copy of the foregoing Appeal was mailed, postage pre-paid to: Mr. Bruce Doak, Gerhold, Cross & Etzel, 320 East Towsontowne Boulevard, Suite 100, Towson, Maryland 21286; Mr. W. Craig Kenney, 1716 Glencoe Road, Glencoe, Maryland 21152 and Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Jefferson Building, 105 West Chesapeake Avenue, Room 204, Towson, Maryland 21204.



MICHAEL P. TANCZYN, Esquire

8/1/08

IN RE: **PETITION FOR VARIANCE**

N/S Glencoe Road at its Intersection w/
Shermantine Lane

(1718 Glencoe Road)

10th Election District

3rd Council District

Robert W. Lange, et ux

Petitioners

*

*

*

*

*

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

Case No. 2008-0528-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 owners of the subject property, Karen O. and Robert W. Lange. The Petitioners request variance relief from Section(s) 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (shown as a "barn" on the plan)¹, to be located in the front yard in lieu of the rear yard with a height of 25 feet in lieu of the permitted 15 feet. The subject property and requested relief are more particularly described on the amended site plan, which was accepted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the request were Karen O. Lange, property owner, and Bruce E. Doak, with Gerhold, Cross & Etzel, Ltd., the consultant who prepared the site plan for this property. Appearing as a Protestant was W. Craig Kenney, a property owner to the north of the subject property residing at 1716 Glencoe Road.

Testimony and evidence offered disclosed that the subject property is located on the north side of Glencoe Road opposite Shermantine Lane in Sparks-Glencoe not far from York Road

¹ Section 400 of the B.C.Z.R. pertains to accessory buildings in residential zones and mandates their location only in the rear . . . with a height limitation of 15 feet. Sections 1A01.3A and 300.1 more specifically pertain to accessory structures in the Resource Preservation Zone and specifically state that the height of farm buildings and barns are an exception to Section 400. It became obvious, however, at the outset of the hearing that the accessory structure in this case is not a barn or "other accessory agricultural building" but more correctly an accessory recreational/clubhouse structure. It is, therefore, subject to the provisions of Section 400.

RECEIVED FOR FILING
Date 8-1-08
By [signature]

(MD Rte. 45). The site is 11.00 acres in size and is zoned R.C.2. It is served by private well and septic system and improved with a large two-story frame dwelling positioned on the northern portion of the lot and features a large in-ground pool in the rear yard. The developable rear yard area of the property is impacted by substantial forest, a revertible slope easement along the western portion of the lot, 0.86 acres taken for highway widening improvements to Glencoe Road, and location of the septic system and septic reserve areas. The Petitioners purchased the property in 1999 and have three (3) children and are desirous of constructing a new barn-like structure that will provide for a tractor shed, personal entertainment and recreational room and an attached large covered porch. As illustrated on the elevations prepared by architect, Sara Schweizer, reviewed at the hearing, the new accessory structure will be 66' wide x 24' deep x 25' high and the façade will incorporate stone work with wide plank barn siding with generous window treatments. Mature trees currently buffer the view from Glencoe Road, Shermantine Lane and adjacent properties. The plan was amended by rotating the accessory structure to face Petitioners home with the west side of the tractor shed facing on Glencoe Road further buffering the view. Ms. Lange points out that their home has no basement and the new structure would in addition to the families recreational use provide for much needed storage space. It is indicated that the roof pitch has been designed to match the existing house and will further allow the structure to be converted to a barn in future years when the recreational space is no longer needed.

In further support of the proposal, Ms. Lange testified that the improvements are intended to upgrade their home and enhance the property. Its sole purpose is for their personal use only and will not be used to support sleeping quarters, living area, commercial or business uses. Both she and Mr. Doak testified that the location is driven by the inability to build in the rear yard and

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will be positioned far from any lot lines and there will be no detrimental impact on their neighbors.

W. Craig Kenney purchased 20 acres on the north side of Glencoe Road in 1983 and testified in opposition to the variance. Mr. Kenney's adjoining property line is over 600 feet north of the proposed structure. He raised concerns that B.C.Z.R. Section 1A01.3B.4 limits the number of dwellings in an R.C.2 zone to one (1). The R.C.2 zone was created to specifically reduce the amount of development in the rural area and the limitation on the number of dwellings on a property regardless of the size is a vital component of the growth management zones. As to the subject proposal, he demonstrated that Petitioners contention that they plan to build a barn is disingenuous. Why a kitchen, bathroom, two fireplaces . . . and a height of 25 feet when B.C.Z.R. Section 400.3 only allow such structures to be a maximum of 15 feet high. This structure he points out is as large as a home. He further pointed out that the Langes don't own a tractor so why do the architectural drawings incorporate a 11.5' x 21.5' tractor shed? In brief, the barn-like structure, he asserts, will not be used in a commercial agricultural manner, and so it does not fall under the statutory definition of a "barn" which has no height restrictions. Subsequent to the hearing, and during the period of time the record was left open to resolve conflicting Department of Environmental Protection and Resource Management (DEPRM) comments, Mr. Kenney engaged the services of Michael P. Tanczyn, Esquire, who reviewed the record of the case and submitted a Memorandum in Opposition to the Petition, which has been marked as Protestants Exhibit 1 and incorporated in the case file.

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. I find that the Petitioners have met the requisite burden imposed upon them by Section 307 of the B.C.Z.R. for variance relief to be granted and that strict compliance with

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the zoning regulations would be unnecessarily burdensome to them. Maintaining an accessory structure is a permitted use and failure to grant the variance would deprive them of a reasonable use of their property. *See Belvoire Farms v. North* 355 Md. 259 (1999). I find that the Lange property is unique in size, shape and the fact that it is constrained by the surrounding rear yard highway easements, the location of existing septic system and septic reserve areas. In my view, the relief requested will not result in any detriment to the health, safety and general welfare of the surrounding locale and shall, therefore, be granted. The request to build the structure to a height of 25 feet - in an area that has justifiably earned a reputation as being one of the first residential sections in the metropolitan area is not in conflict with the character of the neighborhood. *See* for example similar relief granted in Case Nos. 06-510-A (Thornton Mill Road), 08-225-SPHA (16809 York Road) and 07-589-A (13023 Beaver Dam Road).

The Zoning Commissioner is empowered to impose restrictions upon the grant of any relief pursuant to Section 32-3-301(c) of the Baltimore County Code for the protection of the surrounding and neighboring properties. A number of restrictions are appropriate here, particularly given the concerns expressed by Mr. Kenney, as well the Zoning Advisory Committee (ZAC) comments received from the Office of Planning and DEPRM. First, and as specified by General Note No. 12 on Petitioners' Exhibit 1, *"The proposed structure will not have a second floor and will not have any bedrooms. The proposed structure will never be used as a dwelling."* Secondly, the Petitioner shall have no high-intensity or intrusive lighting (other than low-intensity security types) located on the north side of the accessory structure that would penetrate and interfere with W. Craig Kenney's home and yard area. Third, the Petitioners shall record in the Land Records of Baltimore County a covenant to the Deed for their property restricting the use of the kitchen in the accessory structure to Mr. and Mrs. Lange and no others.

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Said covenant shall contain the proviso that such use shall terminate at such time as the Langes no longer reside on the property, or the subject property is sold, and no future purchaser shall maintain a stove or kitchen without a subsequent special hearing. Lastly, the Petitioners shall permit a representative of the Code Enforcement Division of the Department of Permits and Development Management (DPDM) reasonable access to the accessory building on the subject property to insure compliance with this Order.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County, on this 1st day of August 2008, that the Petition for Variance to permit, pursuant to Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), an accessory structure, a proposed recreational/clubhouse (shown as "Barn" on the plan), to be located in the front yard in lieu of the rear yard with a height of 25 feet in lieu of the permitted 15 feet, in accordance with Petitioners' Exhibits 1 and 5, be and is hereby GRANTED; subject to the following restrictions which are conditions precedent to the relief granted herein:

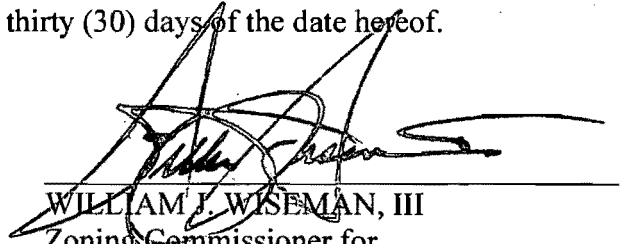
1. The Petitioners may apply for their permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the thirty (30) day appellate process from this Order has expired. If, for whatever reason this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The recreational/clubhouse structure shown as a Barn on Petitioners' Exhibit 1 shall be limited to uses accessory to the residential use of the property. It shall not be used for commercial or business purposes. Moreover, the Petitioners shall not allow or cause the barn to be converted to a second dwelling unit and/or apartments. There shall be no living quarters contained therein.
3. There shall be no use of high-intensity or intrusive lighting (other than low-intensity security types) located on the northern side of the accessory structure and outdoor

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shower that would penetrate and interfere with W. Craig Kenney's home and yard area.

4. Within ninety (90) days of the date hereof, the Petitioners shall record in the Land Records of Baltimore County a covenant to the Deed for their property (in the form attached) restricting the use of the kitchen in the recreational/clubhouse to Mr. and Mrs. Lange and no others. Said covenants shall contain the proviso that such use shall terminate at such time as the Langes no longer reside on the property, or the subject property is sold, and no future purchaser shall maintain a kitchen stove or heating unit within the accessory structure without a subsequent special hearing. A copy of the recorded covenant shall be submitted to the Department of Permits and Development Management (DPDM) for inclusion in the case file.
5. The Petitioners shall permit a representative of the Code Enforcement Division of the Department of Permits and Development Management (DPDM) reasonable access to the recreational/clubhouse on the subject property to insure compliance with this Order.
6. When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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

ORDER RECEIVED FOR FILING
Date 8-1-08
By [signature]

COVENANT

Whereas, in a Petition for Variance before the Zoning Commissioner of Baltimore County, Case No. 2008-0528-A, Robert W. Lange and Karen O. Lange, the Petitioners, requested a Permit for a kitchen to be installed in a proposed accessory structure in addition to the one in their home, and to permit the structure to be in the front yard in lieu of the rear yard with a height of 25 feet in lieu of the maximum 15 feet allowed, and the Zoning Commissioner, by Order dated August 1, 2008, granted the Permit, providing the following covenant be added to their Deed, which Deed was recorded in the Land Records of Baltimore County, at Liber 13598, Folio 151.

Robert W. Lange and Karen O. Lange hereby covenant that the accessory structure shall be used for personal entertainment and their children's recreation and that the structure will not have a second floor and will not have any bedrooms nor will it be used by any person as a dwelling. No subsequent purchaser shall maintain a stove or cooking component in the kitchen area of the approved structure for any reason or purpose without a subsequent special hearing which shall be subject to the terms and conditions contained in the Order issued in Case No. 2008-0528-A.

As witness our hands and seals this _____ day of November 2008.

_____(SEAL)
Robert W. Lange

_____(SEAL)
Karen O. Lange

State of Maryland)

To wit

County of Baltimore)

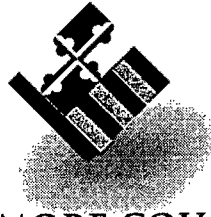
I HEREBY CERTIFY THAT ON THIS _____ day of _____, 2008, before me a Notary Public of the State of Maryland, in and for Baltimore County, personally appeared Robert W. Lange and Karen O. Lange, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument, and acknowledge 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 Notarial Seal:

NOTARY PUBLIC

My Commission Expires:

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Date 8-1-08
By [Signature]



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

July 31, 2008

Robert W. Lange
Karen O. Lange
1718 Glencoe Road
Glencoe, Maryland 21152

RE: PETITION FOR VARIANCE

N/S Glencoe Road at its Intersection w/Shermantine Lane
(1718 Glencoe Road)
10th Election District - 3rd Council District
Robert W. Lange, et ux - Petitioners
Case No. 2008-0528-A

Dear Mr. and Mrs. Lange:

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

A handwritten signature in black ink, appearing to read 'W. J. Wiseman III', written over the words '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
W. Craig Kenney, 1716 Glencoe Road, Glencoe, MD 21152
Michael P. Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, MD 21204
Code Enforcement Division, Department of Permits and Development Management (DPDM)
People's Counsel; DPDM; File

7/30/08

**IN RE: 1718 Glencoe Road
PETITION FOR VARIANCE**

**Property Owner: Robert E Lang and
Karen Lang
10th Election District, 3rd Councilmanic District**

*** BEFORE THE
* ZONING COMMISSIONER
* FOR BALTIMORE COUNTY
* Case No. 2008-0528-A**

MEMORANDUM OF PROTESTANT, W. CRAIG KENNEY

Now comes W. Craig Kenney, Protestant, who appeared and testified at the aforesaid hearing on July 22, 2008 before The Honorable William Wiseman, Zoning Commissioner. Undersigned counsel has been retained, post hearing, to summarize Protestant's reasons for opposing the Variance.

PREAMBLE

The Petitioners, who are the property owners, own an 11.00 acre parcel on which was previously improved as a large, 2-story frame dwelling with an in-ground pool. They propose to place approximately 200 feet in front of their home and adjacent to a long access driveway in their front yard, a self-described "barn." The Protestant, W. Craig Kenney, owns adjacent property and has submitted photographs at the hearing indicating that his property recently appraised for 2.45 Million Dollars. He believes the very large visible "barn" will devalue his property. A review of the Petitioners' footprint, without elevations shown of the proposed barn, indicates it very much resembles a 2-story residential building with a roof pitch between 5/12 or 6/12 which would yield an interior ceiling height of 18 to 20 feet, which would certainly allow a second floor to be added in the future. On the footprint shown, amenities for this "barn" include a wood stove, large fireplaces, indoor bath and outdoor shower, and kitchen. Another amenity is a large open porch, so labeled by the Petitioner. There appears to be on the drawing, although

not labeled, another fireplace. The land is zoned RC-2. Artist's renderings admitted as Petitioners' Exhibit 5 also indicate four large side-by-side glassy doors centered along the vista wall of the "barn" as well as two other windows on that same side above. That Exhibit also labels one of the rooms called a "porch" on the site plan as a "sunroom." Petitioners' Exhibit 5 also details a kitchen, bath and outdoor shower.

According to information contained with Petition or testimony given at the hearing by the engineer, Bruce Doak, of Gerhold Cross & Etzel, Limited, Registered Professional Land Surveyors, the property was part of a subdivision which occurred in 1980. As RC-2 regulations were enacted in 1979, antedating this subdivision, and because the property has been zoned RC-2 from that time to the present, the legislative Statement of Findings found in BCZR 1.A.01.1(a) are worth reviewing. The legislative findings frown upon scattered development containing productive agricultural land, urban infusion into productive agricultural areas and, most importantly, acknowledge that Baltimore County has been unable to effectively stem the tide of new residential subdivisions in productive agricultural areas. With that backdrop, the Petitioners' request for an accessory structure "barn" under BCZR 1A.01.2(b)(9) does not fit any of the enumerated accessory uses or structures permitted by right in a RC-2 zone. The barn, as described and its proposed uses from the Petitioners and their agents, does not seem to meet the criteria of any agricultural support issues set forth in BCZR 1.A.01.2(c)(29) as enumerated therein. To cut to the chase, the Petition for Variance met with both County agency opposition, as well as that of Mr. Kenney.

DEPRM, through Mr. Lippincott, submitted several comments *seriatim*, principally pointing out one or more of the following points. The Petitioner had a parallel request pending

before the AG Board for a tenant house and barn, which was to be decided by the AG Board on the July 29, 2008. The plan showed a kitchen, bath and outdoor shower which Mr. Lippincott found to be inappropriate in an RC-2 zone since the putative tenant house/barn was located in close proximity to the main house on the property and that the owner had requested, before the AG Board, a clubhouse.

Mr. Lippincott then pointed out correctly that BCZR 1.A.01.3(b)(4) limits the number of dwelling on an RC-2 zone of this size to one, whereas the “barn” may over time morph into a *de facto* second dwelling. Mr. Lippincott opined that the longstanding Baltimore County administrative interpretation in practice regarding resource conservation and RC-2 zones in particular was to reduce development in rural areas as set forth in the legislative findings of the County Council in adopting the RC-2 zone. He further stated the administrative practice was not to permit accessory buildings to have full kitchens and full baths since that would equal a building which could be used as the functional equivalent of a residence with no reasonable way for the County to prevent same. He requested that the kitchen, bathroom, and outdoor shower be stricken from the building plan. Of similar note, the Office of Planning for Baltimore County suggested that the request for a kitchen, bath and outdoor shower would make it a residence and should not be allowed on the premises.

Turning to Mr. Kenney’s protest and what occurred at the hearing, the Petitioners’ request was for variance relief to allow a structure 25 feet in lieu of the allowable 15 feet per BCZR 400.3. That section reads as follows verbatim:

400.3. The height of accessory buildings, except as noted in section 3, shall not exceed 15 feet. Further, whether or not specifically requested, under 400.1, accessory buildings in resident zones, other than farm buildings regulated by

section 404, shall be located only in the rear yard and shall occupy not more than 40% thereof. There are exclusions and exceptions not applicable here where buildings are attached:

The provisions of section 404, entitled "Farm and Agricultural Operations" under the BCZR, are plainly, based on the testimony presented at the hearing by Petitioners and Petitioners' representatives, inapplicable. That section deals with limited acreage, wholesale flower farms, horticultural nurseries and landscape service operations. As that was not even requested by the Petitioners or their representatives, even with the qualifying preface, "Once upon a time," the focus should turn to the provisions of section 300, which is titled "Exceptions to Height and Area Requirements."

Section 300.1 does not apply to barns and silos, grain elevators or other accessory agricultural buildings. However, that same section goes on to limit that any such permitted structure, under the height exception, shall not have a horizontal area greater than 25% of the roof area of the building. Under the Petitioners' plan, that limitation is ignored and violated with the high pitch to the roof which allows a second story.

Turning next to section 101 of the BCZR definition section, that section defines accessory building as "one which is subordinate and customarily incidental to and on the same lot with a main building. A trailer shall not be considered an accessory building. A structure connected to a principal building by a covered passageway or with one wall in common shall not be considered an accessory building." Further, because a barn is not defined in the definition section, its definition would be taken from Webster's Third New International Dictionary of the English Language Unabridged under section 101 as stated in the second paragraph. In the hearing, the Petitioners' representative, Mr. Doak, asserted that the barn will be used for

agricultural purposes and picnics. He further asserted the barn will not be used as a residence or for sleeping. He further stated the Petitioners intended to use the structure to store machinery such as their tractor. The enumerated tractor shed represents, essentially, the 220 foot square adjacent to the fireplace main room and porch for this structure, which measures 66 ½ feet long and 21 feet wide. The percentage applicable to farm-related business is the tractor shed. On the footprint of the proposed barn, no access points were shown. On Petitioners' Exhibit 5, the doors and glassy area seem to apply to the party room/portion of the "barn" and it is to the party room/portion of the "barn" that the kitchen, indoor bath and outdoor shower were appended. There is an exceedingly ample sized porch or sunroom, depending on whether one is looking at the site plan detail or the Petitioners' Exhibit 5 detail, measuring 12 feet by 21 feet focused on the wood stove/fireplace. Turning to the RC-2 regulations, this attempt at an end run by the Petitioners to attempt to fool the Commissioner into calling a second residential dwelling a barn appears to run afoul of BCZR 1A.01.3(b), "Area Regulations", (b)(1), "Subdivision Lot Density".

That section states "no lot of record line within an RC-2 zone having a gross area of less than two (2) acres may be subdivided. No such lot having a gross area between two (2) and a hundred (100) acres may be subdivided into more than two (2) lots total and such a lot having a gross area of more than a hundred (100) acres may be subdivided only at the rate of one (1) lot for each fifty (50) acres of gross area." In this situation, none of the requested relief is titled or petitioned as a minor subdivision.

This is, by all appearances and in accordance with the testimony of Petitioners' representative and one of the Petitioners' owners who was present at the hearing, a bare request

for a *de facto* subdivision. That is expressly prohibited by BCZR section 1A.01.3(b)(4) entitled, "Principal Dwellings Per Lot." That section states "no more than one (1) principal dwelling is permitted on any lot in an RC-2 zone."

The request by the Petitioners was intended to be supported by the Petitioners' representative's answers to questions. When asked by Mr. Kenney what agricultural use the Petitioners is or will undertake, the representative answered, "Her children are woodsy." When asked if she owns a tractor which could be placed in the tractor shed, he answered, "No." When asked what the ceiling heights would be, the professional land surveyor representative stated he does not know.

LEGAL ARGUMENT

According to the testimony of the Petitioners' representative, the Petitioner, Mrs. Lang, and/or Mr. Kenney, there was nary a mention of uniqueness which is a peculiar condition applicable to the land or structure to militate extraordinary zoning relief as requested by a variance on the basis of a peculiarity of the land or structure under BCZR section 307. As was explained by the Court of Special Appeals in Cromwell v. Ward, 102 Md. App. 691, 651 A.2d 424 (1995), which interpreted the Baltimore County Zoning Regulation section 307 variance statute, "the granting of a variance from height restrictions on an auxiliary building was arbitrary and illegal where the subject site was not in any way peculiar, unusual or unique when compared to other properties in the neighborhood and thus was not disproportionately affected by height restriction; self-created hardship arising from owner's failure to disclose height dimensions in applying for a permit and construction of building in nonconformity were self-imposed or created hardships that could not support a variance."

In summary fashion, the burden, which falls on the Petitioner, to establish uniqueness was not even attempted to be met. There is no testimony, showing of or claim that this property is unique when compared to other properties. The property is prohibited under the area requirements from having an accessory building over 15 feet without such a showing; and there was no practical difficulty or hardship presented by the property owners to explain the nature or extent of any hardship claimed if they were not allowed to build a barn over 15 feet in height as an accessory building. Given the testimony at the hearing that the property owner doesn't even own a tractor, the need for a barn of 25 feet when there was no recitation or representation of any farming activity of any kind going on on the property would seem to indicated that the Petitioners' need to store agricultural air could be met as well by a 15-foot high building as a 25-foot high building. More to the point, the accoutrements and amenities proposed for this party "barn", including a spacious sunroom, kitchen, bath and outdoor shower indicates that after a tough day of not farming, the non-farmer would then have a place to cook up the vegetables they didn't grow in their kitchen or cook up the cattle or sheep parts not raised in the kitchen after taking first an outdoor shower to wash off the grimy air created by non-farming. That, of course, could be followed by a leisurely soak at the indoor bath before enjoying a respite from the arduous non-farming activities engaged in before one or more of the fireplaces while overlooking the vista presented by the concentration of glass doors and windows in the party "barn".

This Petition cannot pass either the sniff test or the laugh test and should be summarily denied.. There is no showing or representation by the property owners of any practical difficulty other than not being able to build a second residence because of those super strict RC-2 regulations which were designed as stated by the County Council in its legislative statement of

policy to prevent residential proliferation and sprawl in prime productive RC-2 lands.

Apparently there was no attempt to describe or define the soils onsite as to their agricultural utility or usefulness. That would be particularly significant since there was no apparent farming being done here in the latter half of the 20th century or at least since the residence and in-ground pool had been built.

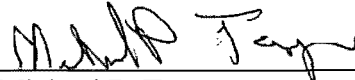
If this was a civil lawsuit, it would be subject to sanctions for being frivolous as it was neither brought nor maintained in good faith by the Petitioners.

Mr. Kenney appends his photos showing his house and property and views of the Petitioners' property including the party "barn" site.

CONCLUSION

The Variance should be denied for the reasons aforesaid.

Respectfully submitted,

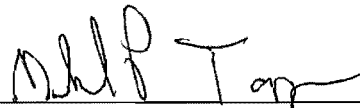


Michael P. Tanczyn
606 Baltimore Avenue, Suite 106
Towson, MD 21204
(410) 296-8823

Attorney for W. Craig Kenney, Protestant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 30th day of July, 2008, a copy of the foregoing was mailed to Robert E. Lang and Karen Lang, 1718 Glencoe Road, Glencoe, MD 21152, Petitioners and to Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Room 204, 105 Chesapeake Avenue, Towson, MD 21204.



Michael P. Tanczyn



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1718 GLENCOE RD

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) SEE ATTACHED 400.1 & 400.3 BCZR

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):

ROBERT LANGE

Name - Type or Print

Signature

KAREN LANGE

Name - Type or Print

Signature

1718 GLENCOE ROAD

Address

Telephone No.

GLENCOE, MD 21152

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 JF

Date 5/9/08

Case No. 2008-0528-A

REV 9/15/98

ORDER RECEIVED FOR FILING

Date

8-1-08

By

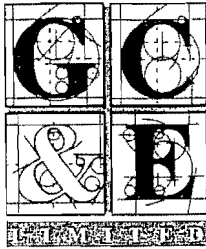
[Signature]

VARIANCE REQUESTED

1718 GLENCOE ROAD

TO PERMIT AN ACCESSORY STRUCTURE (BARN) WITH A HEIGHT OF 25 FEET IN LIEU OF MAXIMUM 15 FEET ALLOWED PER SECTION 400.3 OF THE B.C.Z.R.

TO PERMIT AN ACCESSORY STRUCTURE (BARN) IN FRONT OF THE YARD IN LIEU OF REAR YARD ALLOWED PER SECTION 400.1 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

May 8, 2008

**ZONING DESCRIPTION
LANGE PROPERTY
1718 Glencoe Road
Baltimore County, Maryland**

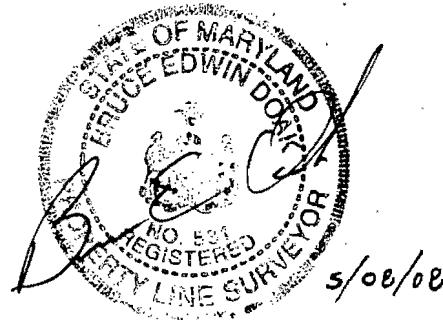
All that piece or parcel of land situate, lying and being in the Tenth Election District, Third Councilmanic District of Baltimore County, Maryland and described as follows to wit:

Beginning for the same at the intersection of the centerlines Shermantine Lane and Glencoe Road, running southeasterly along the centerline of Glencoe Road 380', thence running,

- 1) North 59°35'31" West 184.49 feet,
- 2) North 03°35'31" West 620.40 feet,
- 3) North 15°35'31" West 87.55 feet,
- 4) North 15°35'31" West 24.24 feet,
- 5) North 27°40'31" East 518.89 feet,
- 6) South 62°19'29" East 558.37 feet,
- 7) South 26°23'29" West 1098.60 feet,
- 8) South 26°23'29" West 41.05 feet, to the point of beginning.

Containing 11.0 acres of land, more or less.

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



095

DATE RECEIVED

BUSINESS ACTIVITY - TIME - 0500

Date _____

5/5/58

5/12/2009 5:05:13 PM

SECRET

RECEIPT # 50000 3/12/2000

5.529-70155 LESSOR RELATION

013958

Revised Tot: \$55.00

第5期 第1000号

Baltimore County Maryland

[illegible]

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100										
Total:										1165.00																																																																																																			

Rec

From

ROBERT & KAREN LANGE

For

PELHAM G. VERONE

1714 GLENN CO. CA 95706

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

CASHIER'S VALIDATION

**CORRECTED 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: # 2008-0528-A

1718 Glencoe Road

N/side of Glencoe Road at a distance of 380' south of Shermanline Lane

10th Election District

3rd Councilmanic District

Legal Owner(s): Robert & Karen Lange

Variance: to permit an accessory structure (barn) with a height of 25 feet in lieu of the maximum 15 feet allowed per section 400.3 of the BCZR. To permit an accessory structure (barn) in front of the yard in lieu of rear yard.

Hearing: Tuesday, July 22, 2008 at 9:00 a.m. in Room 104, Jefferson Building, 105 W. Chesapeake 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.

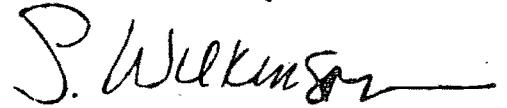
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
JT 7/619 July 8 177856

CERTIFICATE OF PUBLICATION

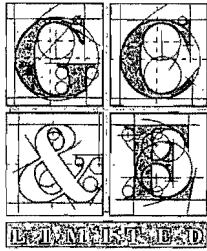
7/10/, 2008

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 7/8/, 2008.

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



LEGAL ADVERTISING



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# 2008-0528-A
PETITIONER/DEVELOPER:
Robert & Karen Lange
DATE OF HEARING: 7/22/08

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)

LOCATION:
1718 Glencoe Road

SIGNATURE OF SIGN POSTER

Bruce E. Doak

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

POSTED ON: 7/01/08

ZONING NOTICE

CASE # :2008-0528-A

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

PLACE: Room 104 Jefferson Building
TIME & 105 W. Chesapeake Avenue, Towson, MD
DATE : 9:00 am Tuesday July 22, 2008

Variance: to permit an accessory structure (barn) with a height of 25 feet in lieu of the maximum 15 feet allowed per section 400.3 of the BCZR. To permit an accessory structure (barn) in the front yard (erroneously "of the yard") in lieu of the rear yard.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING
CALL 410-887-3191 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

Requested: December 2, 2008

APPEAL SIGN POSTING REQUEST

CASE NO.: 08-528-A

1718 Glencoe Rd

10th ELECTION DISTRICT

APPEALED: 8/27/2008

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

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

CERTIFICATE OF POSTING

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

Attention: Kathleen Bianco
Administrator

CASE NO.: 08-528-A

LEGAL OWNER: Robert and Karen Lange

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

1718 GLENCOE ROAD
N/S OF GLENCOE RD AT INTERSECTION WITH SHERMANTINE LANE

The sign was posted on 12-8-08, 200 .

By: M Stuart Kelly
(Signature of Sign Poster)

M Stuart Kelly
(Print Name)

PHOTOGRAPHIC RECORD

Citation/Case No.: 08-528-A 1718 Glencoe Rd

Date of Photographs: 12-8-08



I HEREBY CERTIFY that I took the 2 photographs set out above, and that these photographs
(number of photos)
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.

Justin Anthony
Enforcement Officer



ZONING NOTICE

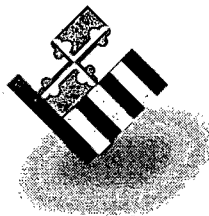
CASE # :2008-0528-A

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

PLACE: Room 104 Jefferson Building
TIME & 105 W. Chesapeake Avenue, Towson, MD
DATE : 9:00 am Tuesday July 22, 2008

Variance: to permit an accessory structure (barn) with a height of 25 feet in lieu of the maximum 15 feet allowed per section 400.3 of the BCZR. To permit an accessory structure (barn) in the front yard (erroneously "of the yard") in lieu of the rear yard.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING.
CALL 410-837-3391 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



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

June 4, 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: 2008-0528-A

1718 Glencoe Road

N/side of Glencoe Road at a distance of 380' south of Shermanline Lane

10th Election District – 3rd Councilmanic District

Legal Owners: Robert & Karen Lange

Variance to permit an accessory structure (barn) with a height of 25 feet in lieu of the maximum 15 feet allowed per section 400.3 of the BCZR. To permit an accessory structure (barn) in front of the yard in lieu of rear yard.

Hearing: Wednesday, July 16, 2008 at 11:00 a.m. in Room 102, Jefferson Building,
105 W. Chesapeake Avenue, Towson 21204

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Robert & Karen Lange, 1718 Glencoe Road, Glencoe 21152
Gerhold, Cross & Etzel, 320 E. Towsontown Blvd., Ste. 100, Towson 21286

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JULY 1, 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, July 1, 2008 Issue - Jeffersonian

Please forward billing to:

Bruce Doak
Gerhold, Cross & Etzel
320 E. Towsontown Blvd., Ste. 100
Towson, MD 21286

410-823-4470

NOTICE OF ZONING HEARING

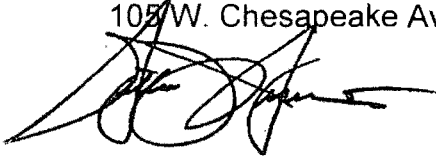
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CASE NUMBER: 2008-0528-A

1718 Glencoe Road
N/side of Glencoe Road at a distance of 380' south of Shermanline Lane
10th Election District – 3rd Councilmanic District
Legal Owners: Robert & Karen Lange

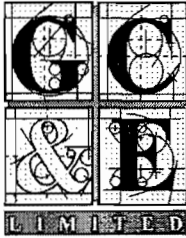
Variance to permit an accessory structure (barn) with a height of 25 feet in lieu of the maximum 15 feet allowed per section 400.3 of the BCZR. To permit an accessory structure (barn) in front of the yard in lieu of rear yard.

Hearing: Wednesday, July 16, 2008 at 11:00 a.m. in Room 102, Jefferson Building,
105 W. Chesapeake 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.



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

June 13, 2008

Timothy Kotroco, Director
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, MD 21204

Re: Case 2008-0528-A

Kristen:
OK to postpone
J-12.

Dear Sir,

I will be representing Mr. and Mrs. Lange in the zoning hearing scheduled for July 16, 2008. I have a long standing conflict and can not attend a hearing that week. I ask by way of this letter to have the hearing re-scheduled to July 21, 22, 24 or 25, 2008. Thank you for your consideration of this request.

Bruce E. Doak
Principal

TO: PATUXENT PUBLISHING COMPANY
Tuesday, July 8, 2008 Issue - Jeffersonian

Please forward billing to:

Bruce Doak
Gerhold, Cross & Etzel
320 E. Towsontown Blvd., Ste. 100
Towson, MD 21286

410-823-4470

CORRECTED NOTICE OF ZONING HEARING

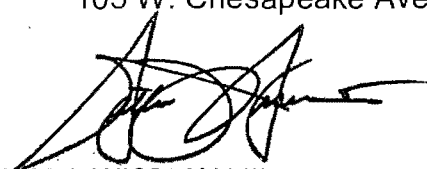
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2008-0528-A

1718 Glencoe Road
N/side of Glencoe Road at a distance of 380' south of Shermanline Lane
10th Election District – 3rd Councilmanic District
Legal Owners: Robert & Karen Lange

Variance to permit an accessory structure (barn) with a height of 25 feet in lieu of the maximum 15 feet allowed per section 400.3 of the BCZR. To permit an accessory structure (barn) in front of the yard in lieu of rear yard.

Hearing: Tuesday, July 22, 2008 at 9:00 a.m. in Room 104, Jefferson Building,
105 W. Chesapeake 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.

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: 2008-0528-A
Petitioner: GERHOLD, CROSS & ETZEL LTD
Address or Location: 320 E TOWSENTOWN BLVD, TOWSON MD 21286

PLEASE FORWARD ADVERTISING BILL TO:

Name: KAREN O. LANGE & ROBERT W. LANGE
Address: 1718 GLENCOE ROAD
GLENCOE, MD. 21152
Telephone Number: 410-823-4470

Revised 2/20/98 - SCJ

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

TO: Larry S.
Wendell
Bob

DATE: April 27, 2009

FROM: Theresa

RE: Memos – Lange

Attached are the Memos in Robert W. and Karen Lange.

The matter is set for **Public Deliberation on Tuesday, May 26, 2009.**

Thank you.

T ☺



County Board of Appeals of Baltimore County

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

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

March 26, 2009

NOTICE OF DELIBERATION

CASE #: 08-528-A IN THE MATTER OF: Robert and Karen Lange– Legal Owners /Petitioners
1718 Glencoe Road, Glencoe, MD 21152
10th Election District; 3rd Councilmanic District

Having concluded this matter on 3/17/09; public deliberation has been scheduled for the following date /time:

DATE AND TIME : **TUESDAY, MAY 26, 2009 at 9:00 a.m.**

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

NOTE: Closing briefs are due on Friday, April 24, 2009, no later than 4:00 p.m.
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Theresa R. Shelton, Administrator

c: Counsel for Petitioner / Applicant	: Howard L. Alderman, Jr., Esquire
Petitioner /Applicant	: Robert W. and Karen O. Lange
Counsel for Appellant / Protestant	: Michael P. Tanczyn, Esquire
Appellant / Protestant	: W. Craig Kenney

Bruce Doak, GC & E

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney



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

2-4-6

(6)

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

December 29, 2008

NOTICE OF ASSIGNMENT

CASE #: 08-528-A

IN THE MATTER OF: Robert and Karen Lange- Legal Owners /Petitioners
1718 Glencoe Road, Glencoe, MD 21152
10th Election District; 3rd Councilmanic District

8/1/08 - ZC Order GRANTING (w/restrictions) Petition for Variance to permit, pursuant to Sections 400.1 and 400.3 of the BCZR an accessory structure to be located in the front yard ilo rear yard, with a height of 256 ft, ilo permitted 15 ft.

ASSIGNED FOR:

TUESDAY, MARCH 17, 2009 at 10:00 a.m.

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

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

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

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

Theresa R. Shelton
Administrator

c: Counsel for Petitioner / Applicant
Petitioner /Applicant

Howard L. Alderman, Jr., Esquire ✓
Robert W. and Karen O. Lange ✓

Counsel for Appellant / Protestant
Appellant / Protestant

Michael P. Tanczyn, Esquire ✓
W. Craig Kenney ✓

Bruce Doak, GC & E

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

1 IN THE MATTER OF: * BEFORE THE
2 ROBERT and KAREN LANGE - * BALTIMORE COUNTY
3 Legal Owners/Petitioners * BOARD OF APPEALS
4 1718 Glencoe Road, * CASE #: 08-528-A
5 Glencoe, Maryland 21152 * March 17, 2009
6 10th Election District *
7 3rd Councilmanic District *

8 * * * * *

9 The above-entitled matter came on for hearing
10 before the County Board of Appeals of Baltimore County at
11 Hearing Room #2, Second Floor, Jefferson Building, 105 W.
12 Chesapeake Avenue, Towson, Maryland 21204, at 10 a.m.,
13 March 17, 2009.

14 * * * * *

15

16

17

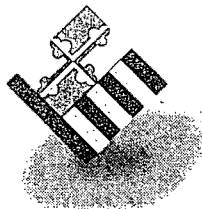
18

19

20

21 Reported by: Carolyn E. Peatt

ORIGINAL



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

July 15, 2008

Robert & Karen Lange
1718 Glencoe Rd.
Glencoe, MD 21152

Dear: Robert & Karen Lange

RE: Case Number 2008-0528-A, Address: 1718 Glencoe Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 09, 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,

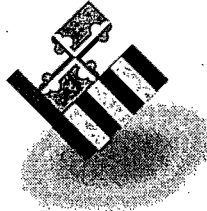
A handwritten signature in black ink, reading "W. Carl Richards, Jr.".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Bruce Doak: Gerhold, Cross & Etzel, 320 E. Towsontown Blvd. Ste. 100, Towson, MD 21204



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

May 20, 2008

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

ATTENTION: Zoning Review planners

Distribution Meeting of: May 19, 2008

Item No.: 518, 520-528, 530, and 532-534.

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.

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

Don W. Muddiman, Acting Lieutenant
Fire Marshal's Office
(Office) 410-887-4880
MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: May 21, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For May 26, 2008
Item Nos. 08-520, 521, 522, 523, 524,
525, 526, 527, 528, 532, 533, and 534

The Bureau of Development Plans Review has reviewed the subject-zoning items, and we have no comments.

ZAC-05212008-NO COMMENTS
DAK:CEN:lrk
cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 3, 2008

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

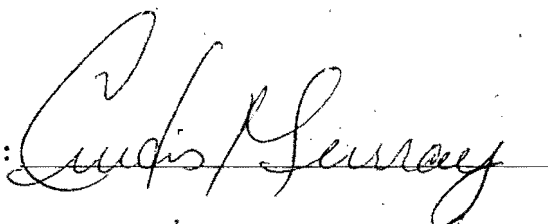
SUBJECT: 8-528 -Variance

The Office of Planning does not oppose the petitioner's request to permit an accessory structure (barn) with a height of 25 feet in lieu of the maximum permitted 15 feet provided the following conditions are met:

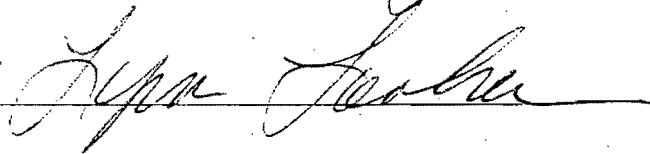
1. The petitioner or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
2. The accessory structure shall not be used for commercial purposes.

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

Prepared by:



Section Chief:



AFK/LL: CM



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 20, 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. 8-528-A
1718 GLENCOE RD
LANGE PROPERTY
ADMINISTRATIVE 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. 8528-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,

¹
For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

BW 7/22
9 AM

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED
JUN 04 2008

BY:

TO: Timothy M. Kotroco
FROM: Dave Lykens, DEPRM - Development Coordination JWL
DATE: June 4, 2008
SUBJECT: Zoning Item # 08-528-A
Address 1718 Glencoe Road
Lange Property

Zoning Advisory Committee Meeting of May 19, 2008

_____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

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 structure is not to be used for residential purposes. – *W.S. Lippincott; Agricultural Preservation*

Reviewer: Regina Esslinger

Date: June 3, 2008

BALTIMORE COUNTY, MARYLAND

ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

Inter-Office Correspondence

TO: William Wiseman DATE: July 23, 2008
FROM: Wally Lippincott, Jr. *WLL*
SUBJECT: Zoning Petition # 08-528-A
 1718 Glencoe Road
 Lange Property

A revised comment was submitted on July 18, 2008 indicating that this property was also the site of a request for a tenant house through the Baltimore County Agricultural Land Preservation Board. This was an error, while in close proximity to the property making the request, it is not the same property.

This request raises concern as BCZR 1A01.3 B.4. limits the number of dwellings in an RC 2 zone to one. The RC zones and the RC 2 zones were created to specifically reduce the amount of development in the rural area and the limitation on the number of dwellings on a property regardless of the size is a vital component of the growth management.

The focus of these comments is on the request for a kitchen and a bathroom in an accessory building. It has been the administrative practice not to permit accessory buildings to have full kitchens and full bathrooms because with those facilities the building can be used for residential purposes with no reasonable way to prevent such a use.

It is recommended that a request for a full kitchen and full bathroom be denied, but there is no opposition to limited facilities such as a sink and toilet for the bathroom and sink and refrigerator but no cooking appliances. Furthermore, it is recommended that a statement indicating that this building shall not be used for residential purposes should be in the order and recorded in the land records of Baltimore County.

c. Bruce Doak, Gerhold, Cross & Etzel

Revised

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Timothy M. Kotroco
FROM: Dave Lykens, DEPRM - Development Coordination
DATE: July 18, 2008
SUBJECT: Zoning Item # 08-528-A
Address 1718 Glencoe Road
Lange Property

Zoning Advisory Committee Meeting of May 19, 2008

The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

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).

Reviewer: Regina Esslinger

Additional Comments (Revised July 18, 2008):

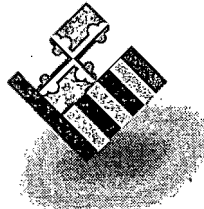
The owner of this property has a request for a tenant house and a barn on this property pending before the Baltimore County Agricultural Land Preservation Board. The owner is

S:\Devcoord\1 ZAC-Zoning Petitions\ZAC 2008\ZAC 08-528-A 1718 Glencoe Road.doc

restoring several existing buildings on the property. The relationship of this request to those before the County Advisory Board is unclear. It seems appropriate to postpone this hearing until the details of the multiple requests can be reviewed and determined to not be overlapping. Regardless, however, the inclusion of a bathroom and a kitchen in this "barn" is not appropriate. The landowner has requested a tenant house and there is also a house on the property all in close proximity. It is highly questionable that there is a need for a bathroom and a kitchen in another building that will function as a barn. The landowner did mention his interest in having a club-house on the property and perhaps that is the intended use for this building.

Reviewer: **W.S. Lippincott, Jr.**

Date: Revised July 18, 2008



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

Robert Lange
Karen Lange
1718 Glencoe Road
Glencoe, MD 21152

Dear Mr. & Mrs. Lange:

RE: Case: 2008-0528-A, 1718 Glencoe Road

Please be advised that an appeal of the above-referenced case was filed in this office on August 27, 2008 from Michael Tanczyn. 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,

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Bruce Doak, GC & E, 320 E. Towsontown Blvd., Ste. 100, Towson 21286
W. Craig Kenney, 1716 Glencoe Road, Glencoe 21152
Michael Tanczyn, 606 Baltimore Avenue, Ste. 106, Towson 21204

RE: PETITION FOR VARIANCE
1718 Glencoe Road; N/S Glencoe Road,
380' S Shermanline Lane
10th Election & 3rd Councilmanic Districts
Legal Owner(s): Robert & Karen Lange
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* 08-528-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

JUN 02 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 2nd day of June, 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



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

March 16, 2009

Maureen E. Murphy, Chair
County Board of Appeals
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Robert & Karen Lange
1718 Glencoe Road
08-528-A

RECEIVED
MAR 16 2009
**BALTIMORE COUNTY
BOARD OF APPEALS**

Dear Ms. Murphy :

Our office reviewed the aforementioned variance case scheduled for a hearing on Tuesday, March 17, 2009. Please enter our appearance in the appeal filed by Mr. W. Craig Kenney. We submit this letter to assist the CBA in identifying and deciding the issues.

We are concerned about the Petition for the following reasons:

1. It does not appear from the facts and pleadings that the site is unique.
2. It does not appear that if the relief is not granted, the Petitioner will sustain practical difficulty to use the residence or to use the site for agriculture. According to the Maryland Department of Assessments and Taxation records, the existing dwelling is over 3300 sq. ft and has been used as a residence since 1986.
3. Even if the structure could be approved, we are concerned that the use is not permitted. A recreational facility use is not a legal primary use or ancillary use in this zone.
4. The proposed structure will contain a bathroom, kitchen facilities and heating in addition to other rooms. Such structures are not typical accessory structures for either residential use or agricultural use. In addition, the Petitioner cannot construct in this zone a *de facto* second dwelling on the site without benefit of the subdivision process under

the Baltimore County Code and BCZR. Finally, only limited and restricted home office use is permitted in this zone, and no such use is permitted in a separate structure.

5. It is disingenuous to call the facility a "barn" just because the site is zoned R.C. 2; a barn is defined in Webster's dictionary as "*a farm building used for storing farm products and sheltering livestock.*" This does not appear to be the use here. A building cannot be approved just because the Petitioner refers to it by a permitted accessory use. The CBA must look beyond a name that could disguise an otherwise unauthorized use.

Our office has opposed similar petitions where the proposed structure was actually an illegal second dwelling on a single lot or contained a use not permitted in the zone.

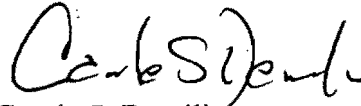
Petitioner and Protestants are represented by counsel in this case. We do not believe our presence at the hearing is necessary to present the facts. If the Board pleases, we request the right to submit post-hearing Memorandum if requested of counsel.

Thank you for your consideration.

Respectfully,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel

cc: Michael Tanczyn, Esquire via fax and first class mail
Howard L. Alderman, Jr. Esquire via fax and first class mail

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Robert and Karen Lange 08-528-A

DATE: May 26, 2009

BOARD/PANEL: Lawrence Stahl
Wendell Grier
Robert Witt

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Variance to permit an accessory structure to be located in the front yard in lieu of rear yard.
2. Petition for Variance to permit the accessory structure to have a height of 25 ft, in lieu of the maximum permitted 15 ft.
3. Petitioner's Motion presented at the hearing, opposing the involvement of People's Counsel in this matter.
3. Is the property unique pursuant to the conditions set forth in Cromwell vs. Ward?
4. If the property is unique pursuant to the conditions set forth in Cromwell vs. Ward; will failure to grant the Variance present a practical difficulty or unusual hardship on the property owner?

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board first reviewed the motion and arguments with regard to the involvement of People's Counsel. People's Counsel entered their appearance in this matter and filed a letter outlining their standing in this matter prior to the hearing. The Board feels that the involvement of People's Counsel is appropriate in this case and they came into this case properly.
- The Board reviewed the Variance with regard to the location of the accessory structure. The topography of the property, the slope easement of the property, the road easement with Baltimore County Government, the shape of the property and the location of the previously existing pool all count toward the "uniqueness" of the property as set forth in Cromwell. The Board reasons that since the pool was already located on the property prior to the purchase of the property by the Petitioners, it is not a self-imposed hardship.

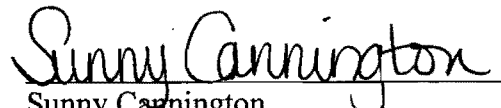
- Additionally, the Board feels that it would be a practical difficulty for the Petitioners if they failed to grant the variance for the accessory structure to be located in the front yard.
- The Board then reviewed the Variance with regard to the height of the accessory structure. The Petitioners intend to build a "clubhouse" for their children to have recreational space. They do not intend to allow anyone to live in the space. The Petitioners indicated that in a few years they would convert the building into a barn and that at that time they would require the additional height. The Board feels that the Regulations say that for accessory structures other than barns, the height is 15 feet. The Board feels that for the intended social use of the structure, the Petitioners do not require the additional height. In addition, the failure to grant the additional height will not cause a practical difficulty for the Petitioners. If the Petitioners later wish to use the structure as a barn, they may work toward making the necessary adjustments to the building for that use at that time.
 - The Board finally reviewed the restrictions the Zoning Commissioner put in place when he granted the variance. The Board will adopt those restrictions with the exception of number 4.

DECISION BY BOARD MEMBERS: The Board decided that the property is "unique" as defined in Cromwell. The Board determined that the location of the accessory structure was appropriate due to the layout and circumstances of the property. The Board determined that the height request was not required and would not cause a practical difficulty. The Board decided that People's Counsel did have proper standing in this matter.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to DENY the Petitioner's Motion with regard to not allowing People's Counsel to participate in this matter; GRANT the Petition for Variance to permit the accessory structure in the front yard in lieu of the back yard; DENY the Petition for Variance to permit the accessory structure to have a height of 25 feet in lieu of the maximum 15 feet; and the Board will adopt the restrictions of the Zoning Commissioner in his opinion dated 8/1/08 with the exception of number 4.

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



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

November 17, 2008

Howard L. Alderman, Jr., Esquire
LEVIN & GANN, P.A.
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204-4525

RE: *In the Matter of: Robert W. and Karen O. Lange*
- Legal Owners /Petitioners Case No. 08-528-A

Dear Mr. Alderman:

This will acknowledge receipt of your letter dated November 13, 2008, regarding the scheduling of the subject matter for hearing.

Upon receipt of this file from the Department of Permits and Development Management, consideration will be given to scheduling a hearing on the earliest date possible. At this time, the Board's docket is scheduled into January and February of 2009, which would place this appeal hearing for some time early in the year.

A Notice of Assignment will be forwarded to you at the time of scheduling. Please call me if I can be of any further assistance.

Very truly yours,

Kathleen C. Bianco
Administrator



c: Mr. and Mrs. Robert W. Lange
Michael P. Tanczyn, Esquire
Bruce E. Doak, PLS
Office of People's Counsel

County Board of Appeals for Baltimore County
Suite 203, Jefferson Building
105 W. Chesapeake Ave
Towson, MD 21204

Re: Robert W. and Karen O. Lange, Petitioners/Owners
1718 Glencoe Rd
Sparks, MD 21152
Case No. 2008-0528-A

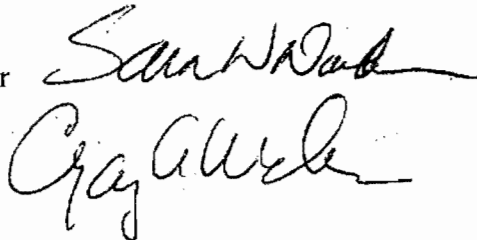
Dear Members of the Board:

We have been contacted by our neighbors, the Langes, regarding the accessory building that they want to add to their home property. We have reviewed the site drawings showing the location and agree that due to the slope of their property the proposed building cannot be erected in the rear yard. However given that the Lange property contains many large, mature trees and that the design of the proposed building will complement their home, in similar design and roof line common to the community, we support the variance that the Langes have requested.

Unfortunately, we cannot attend the hearing on March 17, 2009. Therefore we are asking that you accept this letter as evidence of our support. We have lived in the community for 5 years and are protective of our living environment. The proposed building will be similar to the many, many existing accessory buildings in our community and will provide the Lange family with an area for their children to entertain their friends and provide the Langes with the storage space they need. We welcome parents that provide a safe, quality environment for their children to meet and congregate with their friends instead of allowing them to hang out in a mall or movie theatre.

Should you need additional information regarding our support, please do not hesitate to contact us

Craig and Sara Wacker
1717 Glencoe Rd
Sparks, MD 21152
44-797-3159



RECEIVED

MAR 16 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
410-887-3130
FAX: 410-887-3182

February 11, 2009

VIA FACSIMILE AND U.S. MAIL

Michael Tanczyn, Esquire
606 Baltimore Avenue
Suite 106
Towson, MD 21204

RE: *In the Matter of: Robert and Karen Lange*
Case No. 08-528-A /Request for Postponement

Dear Mr. Tanczyn:

I am writing in response to your letters of January 27, 2009 and February 5, 2009, respectively, in which you request a postponement of the hearing in the subject matter scheduled for March 17, 2009. The Board is also in receipt of Mr. Alderman's letter of opposition to your request, dated February 5, 2009.

Your request for postponement is herewith denied, and the Board will convene as scheduled on March 17, 2009 at 10:00 a.m. to begin hearing this case. This case was scheduled for hearing and notice sent on December 29, 2008 allowing sufficient time for all parties to prepare for the hearing and ample time for the Protestant to make preparations and/or arrangements for travel. Any issues you may have regarding this matter will be addressed by the Board when it convenes for hearing on March 17, 2009.

In light of the above, the hearing will proceed as scheduled on March 17, 2009 at 10:00 a.m.

Should you have any questions, please call me at 410-887-3180.

Very truly yours,

Theresa R. Shelton
Theresa R. Shelton
Administrator

c: Howard L. Alderman, Jr., Esquire
People's Counsel for Baltimore County
Robert W. and Karen O. Lange
W. Craig Kenney

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

February 4, 2009

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

RECEIVED

FEB - 6 2009

BALTIMORE COUNTY
BOARD OF APPEALS

VIA TELEFAX &
REGULAR MAIL

County Board of Appeals for Baltimore County
Attn: Ms. Theresa R. Shelton, Administrator
The Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

RE: ***Robert W. and Karen O. Lange, Petitioners/Owners***
1718 Glencoe Road
Case No. 2008-0528-A
Opposition to Request for Postponement

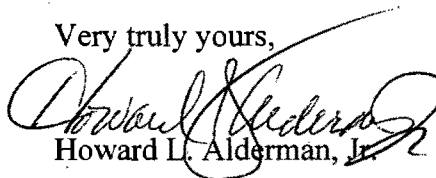
Dear Ms. Shelton:

I have received a copy of Mr. Tanczyn's request, on behalf of his client Mr. Kenney, that the hearing on the above-referenced appeal scheduled for March 17, 2009 be postponed. My clients, the Petitioners in this matter oppose this postponement.

Without comment on Mr. Kenney's unfortunate injury described by Mr. Tanczyn, the fact that his client chooses to winter in Florida and cannot fly due to his injury (although he can apparently travel by car to Florida, arguably a longer trip) is certainly not a good and sufficient reason to postpone these proceedings. If Mr. Kenney can drive to Florida he certainly should be able to drive back to Maryland for the scheduled hearing. This is not a complicated request and, absent numerous witnesses to be called on behalf of Mr. Kenney, should not take more than one (1) hearing day to complete.

For all of the foregoing reasons, the Petitioners request that the postponement be denied. Should you or any member of the Board desire additional information in this regard, please do not hesitate to contact me.

Very truly yours,


Howard L. Alderman, Jr.

HLA/gk

c: Mr. and Mrs. Robert W. Lange
Michael P. Tanczyn, Esquire
Peter Max Zimmerman, People's Counsel

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

November 13, 2008

Kathleen Bianco, Administrator
County Board of Appeals for Baltimore County
The Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

RE: ***Robert W. and Karen O. Lange, Petitioners/Owners***
1718 Glencoe Road
Case No. 2008-0528-A
Entry of Appearance and Request for Expedited Hearing

Dear Ms. Bianco:

Please accept for filing my enclosed Entry of Appearance on behalf of the Petitioners/Owners in the above-referenced case. The requested relief was granted by the Baltimore County Zoning Commissioner and that decision was appealed by Michael P. Tanczyn, Esquire on behalf of his client, a protestant in this matter.

On behalf of my clients, we respectfully request that this matter be scheduled before the Board on the first available date. After reviewing the file I doubt that the case will take more than one (1) day of hearing. Should you or the Board need any additional information in support of this request for an early hearing date, please do not hesitate to contact me.

Thank you.

Very truly yours,



Howard L. Alderman, Jr.

HLA/gk

c: Mr. and Mrs. Karen O. Lange
People's Counsel for Baltimore County
Michael P. Tanczyn, Esquire
Bruce E. Doak, PLS

RECEIVED

NOV 14 2008

BALTIMORE COUNTY
BOARD OF APPEALS

BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

RE: PETITION FOR VARIANCE
N/S Glencoe Road at its Intersection with
Shermantine Lane
(1718 Glencoe Road)

10th Election District
3rd Councilmanic District

Robert W. & Karen O. Lange,

Petitioners/Owners

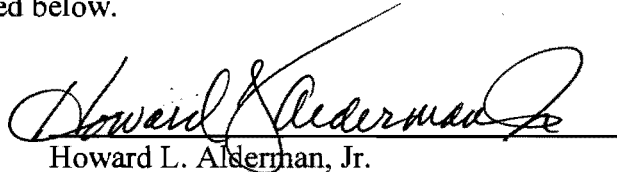
Case No.: 2008-0528-A

ENTRY OF APPEARANCE

Madame Clerk:

Please enter the appearance of the undersigned counsel on behalf of Robert W. and Karen O. Lange, Petitioners/Owners in the above-captioned case and forward all further notices and other communications to me at the address listed below.

Thank you.

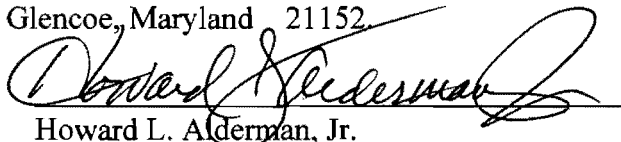


Howard L. Alderman, Jr.
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
410.321.0600 [voice]
410.296.2801 [fax]
halderman@LevinGann.com [e-mail]

Attorneys for Robert W. and Karen O. Lange,
Petitioners/Owners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of November 2008, a copy of the foregoing Entry of Appearance was mailed via First-Class, United States Mail to: i) Peter Max Zimmerman, Esquire and Carole S. Demilio, Esquire, both of the Baltimore County Office of People's Counsel, The Jefferson Building, Suite 204, 105 West Chesapeake Avenue, Towson, Maryland 21204; ii) Michael P. Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, Maryland 21204; and iii) Ms. Karen O. Lange, 1718 Glencoe Road, Glencoe, Maryland 21152.



Howard L. Alderman, Jr.

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827
Email: mptlaw@verizon.net

February 5, 2009
#2008-069

County Board of Appeals of Baltimore County
Attn: Mrs. Theresa R. Shelton, Administrator
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

RECEIVED

FEB - 6 2009

**BALTIMORE COUNTY
BOARD OF APPEALS**

*RE: Case No. 08-528-A
In the Matter of Robert and Karen Lange*

Dear Ms. Shelton:

I just received the fax letter in opposition filed by the Petitioner's attorney, Howard L. Alderman, Jr., Esquire. Mr. Alderman raises a very good question about whether road travel would be reasonable for Mr. Kenney to drive back from Florida for the scheduled hearing on March 17, 2009. In the report of Dr. Jeffrey Gaber on page 1 under History of Present Illness, the answer to that question is found in the CT scan results at the end of that full paragraph which revealed a large left buttock hematoma with subcutaneous emphysema related to the pneumothorax. What all that means as reported by my client is that he cannot ride in an airplane seat because of that chronic condition. When he travels by car to Florida, he takes frequent breaks in his driving to relieve the pressure he feels in that area. Therefore, in addition to the fairly long distance between here and Belleair Beach, Florida, the time it takes him to travel by vehicle is much longer than a straight shot for someone who does not have his problems. I do not intend to make this a letter writing campaign, but wanted to respond to Mr. Alderman's very good question, pointing out to the Board through you a specific part of Dr. Gaber's report which reflects the chronic problem of experience by Mr. Kenney.

Thank you for your consideration of this request. We look forward to receiving the Board's decision on the postponement request. I hope you are settling in well in your new position.

Very truly yours,


Michael P. Tanczyn

MPT:aes

cc: Howard L. Alderman, Jr., Esquire (via fax 410-472-4224)
W. Craig Kenney (via fax 410-296-2801)

LAW OFFICES
MICHAEL P. TANCZYN, P.A.

Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827
Email: mptlaw@verizon.net

January 27, 2009
#2008-069

County Board of Appeals of Baltimore County
Attn: Mrs. Theresa R. Shelton, Administrator
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

*RE: Case No. 08-528-A
In the Matter of Robert and Karen Lange*

Dear Ms. Shelton:

Pursuant to my prior conversation with you and counsel for the Petitioner, Mr. Alderman, I am writing on behalf of my client who requests that the above case presently scheduled for hearing March 17, 2009 at 10:00 a.m. be postponed and rescheduled for hearing on either May 7 or May 14, 2009 at 10:00 before the Board. The reason for the request is that my client who owns a residence in Florida habitually spends the colder months of the winter there and will be leaving for Florida on February 5, 2009 and returning on April 15, 2009. He has done that every year since 2003. Due to a serious fall he experienced in 2004 which created physical limitations on him when he fell two floors in his Maryland residence while it was under construction, he is unable to fly for the reasons stated in the report. He has forwarded me the report of Dr. Jeffrey D. Gaber & Associates, P.A. made in June of 2005 to explain his physical limitations due to injuries sustained in that accident. Prior to speaking with you, I had called counsel for the Petitioner, Mr. Howard L. Alderman, Jr., Esquire to inform him of this request. Mr. Alderman graciously agreed to contact his clients to see if his clients had any objection to the continuance. Mr. Alderman has called me back and after speaking with his clients, will be objecting to the postponement. I also am forwarding a copy of this request to Office of People's Counsel who has routinely entered their appearance in this case for their information.

Please let me know if a postponement is granted and of the new hearing date.

Very truly yours,


Michael P. Tanczyn

MPT:aes

Enclosures

cc: Howard L. Alderman, Jr., Esquire
Peter Zimmerman, Office of People's Counsel
W. Craig Kenney

RECEIVED
JAN 28 2009

BALTIMORE COUNTY
BOARD OF APPEALS

CASE NAME _____
CASE NUMBER 2008-0528-4
DATE 7/22/08

[illegible]

CASE NAME 2008-0528A
CASE NUMBER Lang
DATE 7-22-08

CITIZEN'S SIGN-IN SHEET

[illegible]

Case No.: 2008-0528-A 1718 GLENCOE RD.

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	AMENDED SITE PLAN	Memorandum of Protestant - Opposition from Michael P. Tanczyn on behalf of W. Craig Kenney
No. 2	PLAN to Accompany Photographs	
No. 3 3A 3I	Photographs Existing Conditions	
No. 4	Aerial Photo of Area - adjacent	
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



PETITIONER' S

EXHIBIT NO. 4



PETITIONERS'
EXHIBIT
GA A



PETITIONERS'
EXHIBIT
B



PETITIONERS'
EXHIBIT
C



PETITIONERS'
EXHIBIT
D



PETITIONERS'
EXHIBIT
6 E



PETITIONERS'
EXHIBIT
6 F



Live Search Maps

Lange Property in relation to Kenney Property

 **FREE!** Use **Live Search 411** to find movies, businesses & more: **800-CALL-411.**



**PETITIONERS'
EXHIBIT**

3/13/2009

Case No.: 2008-0528-A 1718 GLENCOE RD.

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	AMENDED SITE PLAN	Memorandum of Protestant - Opposition from Michael P. Tanczyk on behalf of W. Craig Kenney
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No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

LAW OFFICES
MICHAEL P. TANCZYN, P.A.

Suite 106 • 606 Baltimore Avenue
Towson, Maryland 21204
Phone: (410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827
Email: mptlaw@verizon.net

July 30, 2008

(Via Hand Delivery)

The Honorable William J. Wiseman, III
Zoning Commissioner
105 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
JUL 30 2008
BY:

Re: 1718 Glencoe Road
Case No. 2008-0528-A

Dear Mr. Wiseman:

Enclosed herewith please find our Memorandum to be filed on behalf of Mr. Kenney. Could you please kindly enter my appearance per this Memorandum and send us copies of any decisions rendered in this matter. Thank you for your assistance in this regard.

Very truly yours,



Michael P. Tanczyn

MPT/atl
Enclosure

cc: Mr. W. Craig Kenney
Mr. & Mrs. Robert Lang

PROTESTANT' S

EXHIBIT NO. 1

LAW OFFICES:
MICHAEL P. TANCZYN, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827
Email: mptlaw@verizon.net

April 24, 2009
#2008-069

County Board of Appeals of Baltimore County
Attn: Mrs. Theresa R. Shelton, Administrator
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

*RE: Case No. 08-528-A
In the Matter of Robert and Karen Lange*

Dear Ms. Shelton:

Enclosed herewith for filing is an original and three copies of Memorandum of W. Craig Kenney, Protestant to be filed on behalf of Protestant, Craig Kenney..

Thank you for your consideration in this matter.

Very truly yours,


Michael P. Tanczyn

MPT:aes

Enclosures

cc: Howard L. Alderman, Jr., Esquire
W. Craig Kenney

RECEIVED

APR 24 2009

BALTIMORE COUNTY
BOARD OF APPEALS

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

April 24, 2009

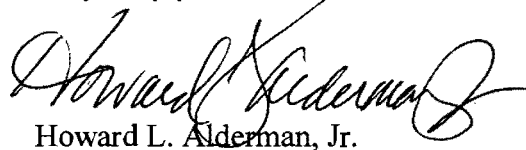
County Board of Appeals for Baltimore County
Attn: Ms. Theresa R. Shelton, Administrator
The Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

RE: ***Robert W. and Karen O. Lange, Petitioners/Owners***
1718 Glencoe Road
Case No. 2008-0528-A
Petitioners' Post-Hearing Memoranda

Dear Ms. Shelton:

In accordance with the direction received from the Board at the conclusion of the hearing on the above-referenced matter, I am pleased to provide to the Board an original and three (3) copies of the *Petitioners' Post-Hearing Memorandum*. Should you or any member of the Board desire additional information or additional copies, please do not hesitate to contact me.

Very truly yours,


Howard L. Alderman, Jr.

HLA/gk
Enclosures (4)
c (w/one encl.):

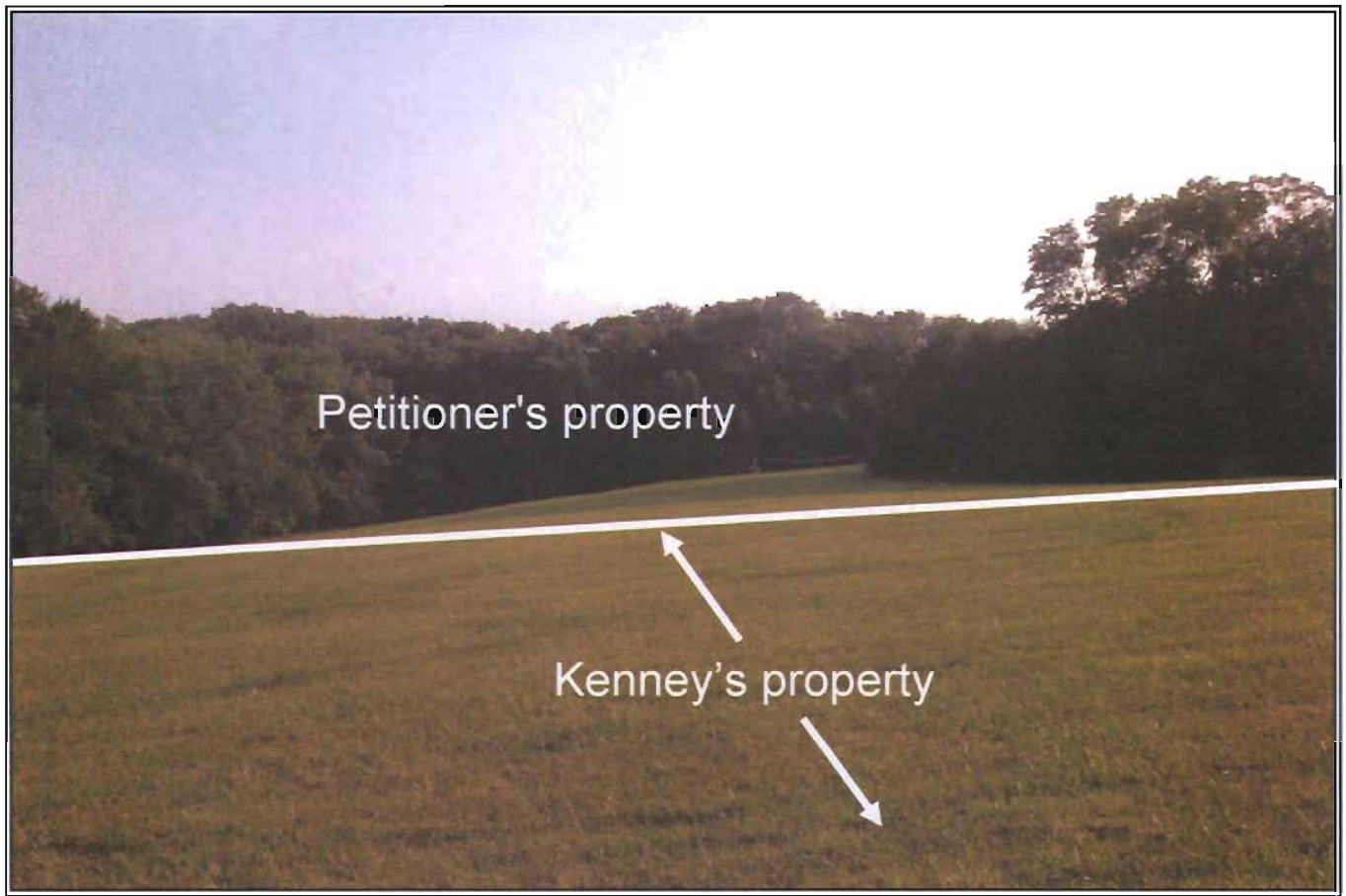
Mr. and Mrs. Robert W. Lange
Michael P. Tanczyn, Esquire
People's Counsel for Baltimore County
Bruce E. Doak, PLS

RECEIVED
APR 24 2009
BALTIMORE COUNTY
BOARD OF APPEALS

Kenney's home faces south and overlooks Petitioner's property



Kenney's view looking south from his home



Case # 2008-0528-A 1718 Glencoe Rd Sparks MD 21152

View from Glencoe Road showing Petitioner's house is clearly visible from the road in the summer as will be the accessory structure when built in the front yard



Case # 2008-0528-A 1718 Glencoe Rd Sparks MD 21152

View from Glencoe Road showing approx location of the structure. Note the woods is completely open to the abutting property.



Case # 2008-0528-A 1718 Glencoe Rd Sparks MD 21152

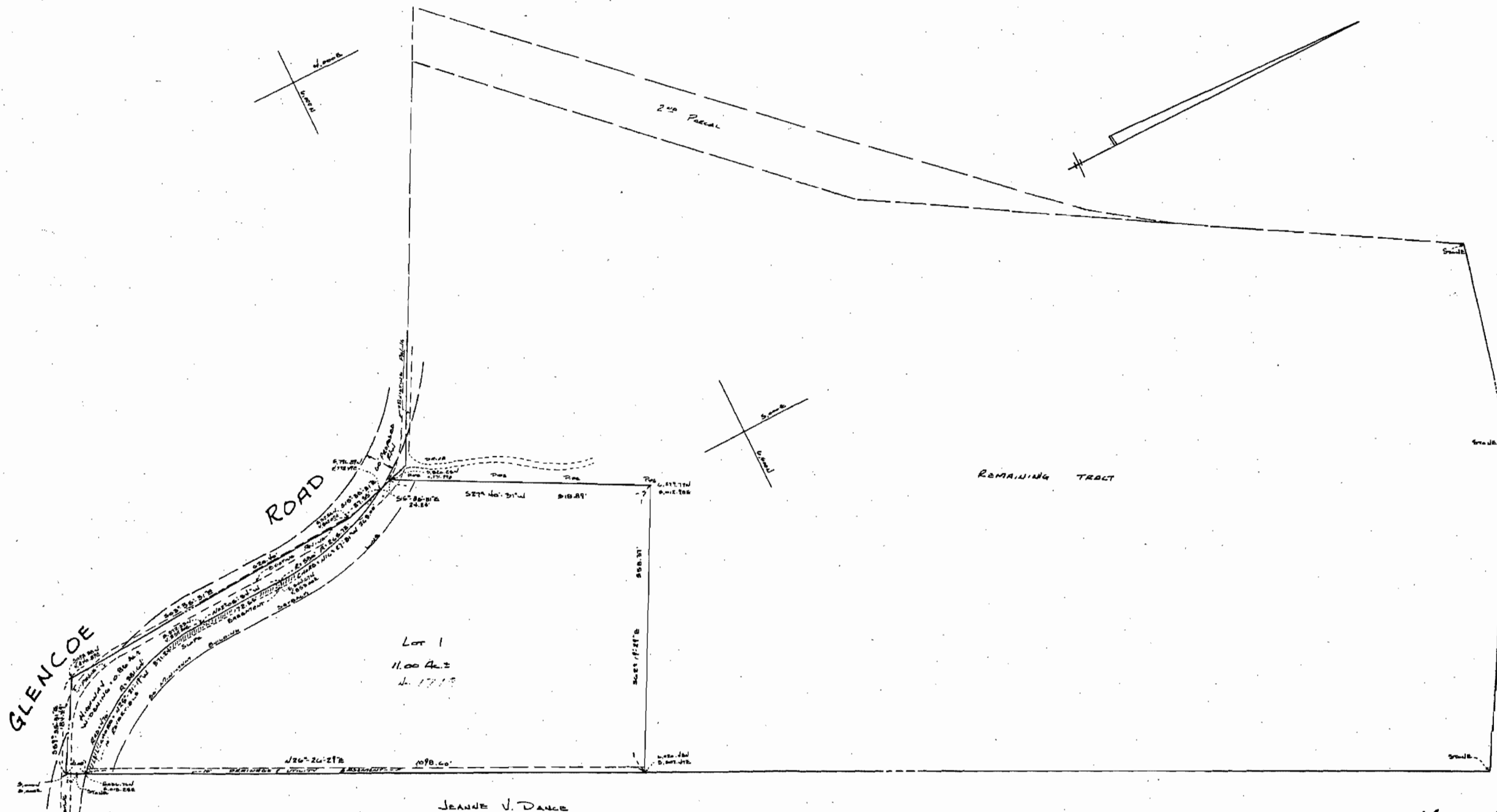
View from Glencoe Road showing Petitioner's driveway and
Open view to the abutting property.



Case # 2008-0528-A 1718 Glencoe Rd Sparks MD 21152

View from Glencoe Road showing stacked firewood





ALL-STATE LEGAL
PETITIONER'S
EXHIBIT

EMK, JR. 48 FOLIO 97

Filed for Record
Date JAN 8 1982
Text

[Signature]

PLAT OF
MILTON J. FIREY III PROPERTY
LOCATED IN
10th ELEC. DIST. BALTIMORE COUNTY, MARYLAND

DEED REF: R.J.S. No. 141 Folio 347

Existing Zoning: RC-2, RC-4
Gen. Area: 62.9 AC.
Lot 1 Zoning: RC-2
No. of Lots: 1 + REMAINING TRACT

OWNER: MILTON J. FIREY III, FATHER
ELTON A. FIREY
GLENCOE ROAD
GLENCOE, MD. 21062

OWNER'S CERTIFICATE
THE UNDERSIGNED OWNER(S) OF
THE LAND SHOWN HEREON HEREBY
CERTIFIES THAT TO THE BEST OF
HIS KNOWLEDGE THE REQUIREMENT
OF SUBSECTION (C) OF SECTION 3-103
OF THE REAL PROPERTY ARTICLE OF
THE ANNOTATED CODE OF MARYLAND
HAS BEEN COMPLIED WITH INASMUCH
AS THE STATE CONCERNING THE AFFAIRS
OF THIS PLAT AND THE SETTING OF
MARKERS

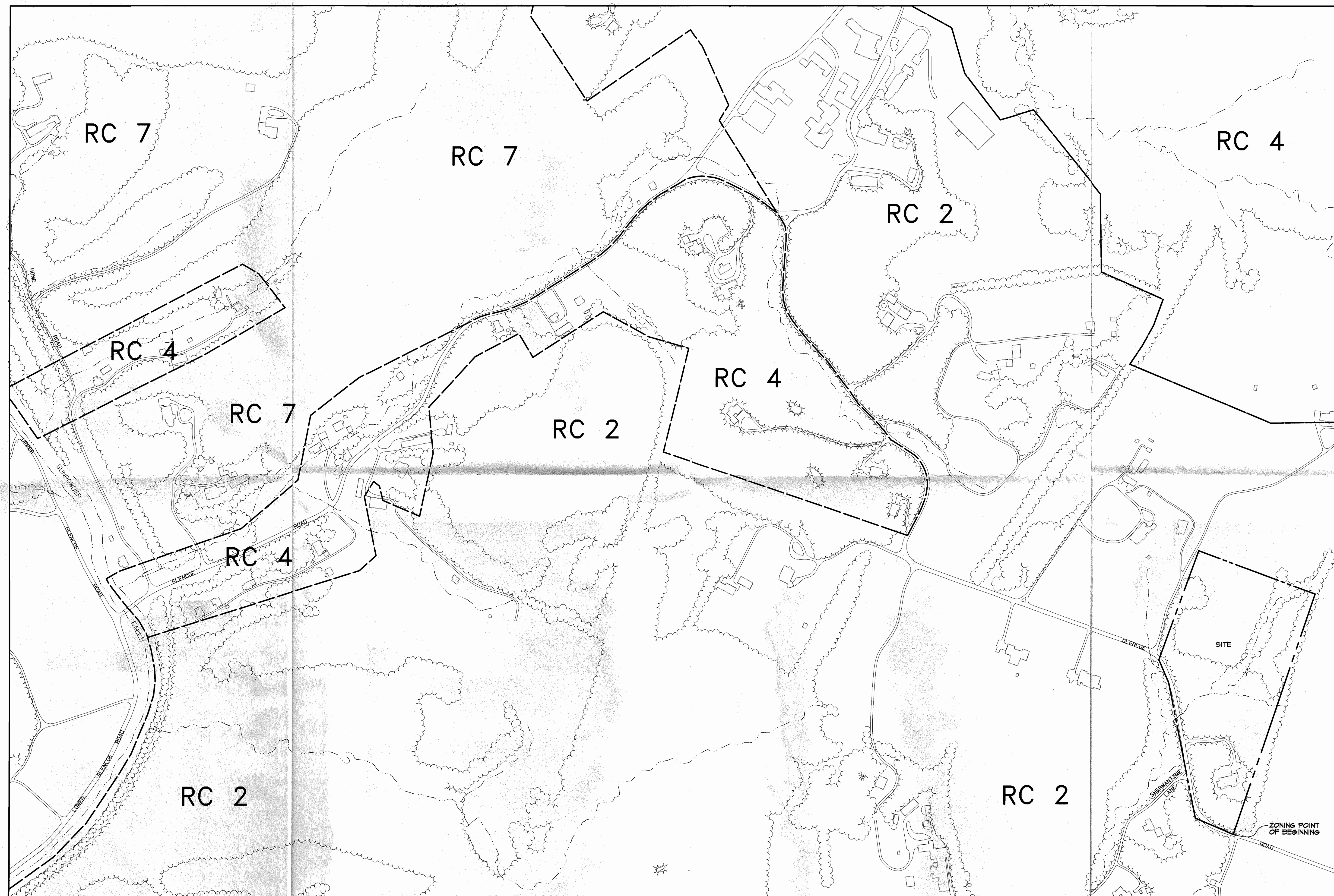
SURVEYOR'S CERTIFICATE
I, JOHN F. ETZEL, A REGISTERED
PROFESSIONAL LAND SURVEYOR OF THE
STATE OF MARYLAND, DO HEREBY
CERTIFY THAT THE LAND SHOWN HEREON
HAS BEEN LAID OUT AND THE PLAT
THEREOF PREPARED IN ACCORDANCE
WITH THE PROVISIONS OF THE LAW
RELATING TO THE SUBDIVISION OF
LAND KNOWN AS HOUSE BILL NO.
VS. 9, CH. 1016 OF THE ACTS OF 1966
AND SUBSEQUENT ACTS AMENDATORY
THEREOF

SCALE 1"=100'
NOTARIES PUBLIC
GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL
LAND SURVEYORS
1/2 DELAWARE AVENUE
TOWSON, MARYLAND 21204
301-828-4470

HIGHWAYS DEPARTMENT OF BALTIMORE COUNTY
APPROVED FOR STREET ALIGNMENT AND LOCATION
[Signature] 11/18/81
Road Engineer DATE
APPROVED FOR BALTIMORE COUNTY HEALTH DEPT.
[Signature] 11/19/81
CAPUTY STATE COUNTY HEALTH OFFICER DATE
APPROVED FOR BALTO. CO. PLANNING BOARD
[Signature] 11/18/81
DIRECTOR DATE

NOTES
1) STREETS AND/OR ROADS AS SHOWN HEREON AND
THE ALLOCATION THEREOF IN DEEDS ARE FOR PURPOSES
OF DESCRIPTION ONLY AND THE SAME ARE NOT INTENDED
TO BE DEDICATED TO PUBLIC USE. THE REAL ESTATE TITLE
TO THE BIDS THEREOF IS EXPRESSLY RESERVED IN THE
GRANTORS OF THE DEED TO WHICH THIS PLAT IS
ATTACHED, THEIR HEIRS AND ASSIGNS.
2) HIGHWAY, HIGHWAY WIDENING, STATE, DEEDS AND
UTILITY EASEMENTS SHOWN HEREON ARE RESERVED
UNTO THE DEVELOPER AND ARE HEREBY OFFERED TO
BALTIMORE COUNTY, MARYLAND. THE DEVELOPER
ITS SUCCESSORS AND ASSIGNS, SHALL CONVEY
SAID AREAS, BY DEED, TO BALTIMORE COUNTY MARYLAND
AT NO COST

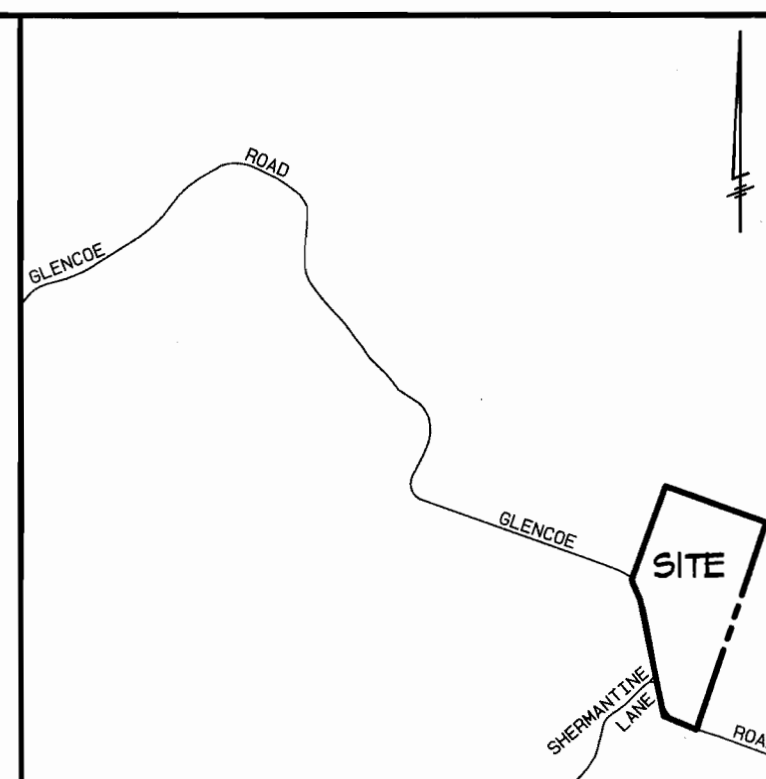
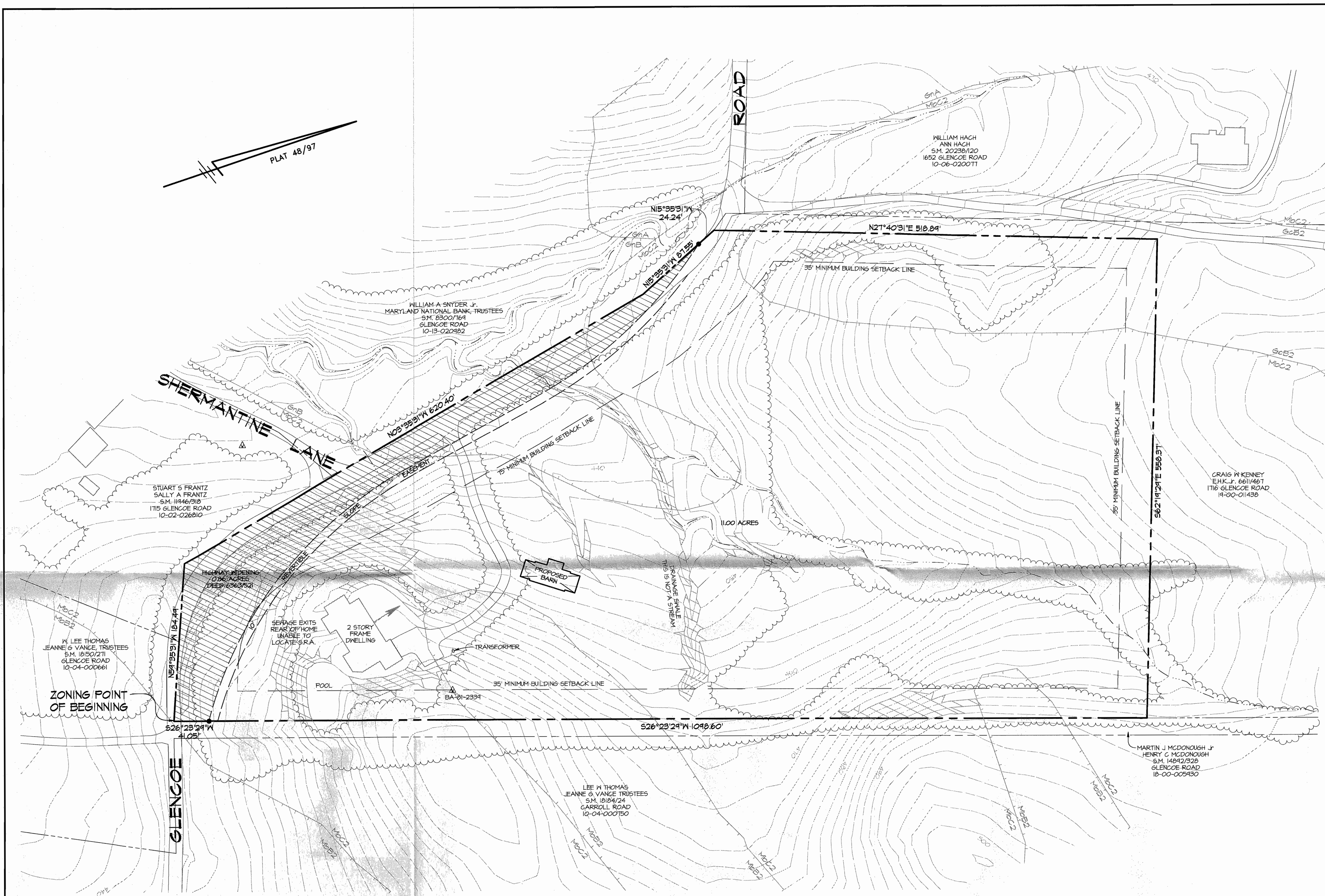
3) CO-ORDINATES AND BEARINGS SHOWN HEREON
ARE REFERENCED TO AN ASSUMED SURVEY.
4) THIS PLAT MAY NOT BE HONORED BY BALTIMORE
COUNTY AFTER FIVE (5) YEARS FROM THE
RECORDING DATE. SEE BALTIMORE COUNTY BILL
#61-79 (SECTION 22-39.1)



ZONING MAP

GIS TILE: 028C3

SCALE: 1" = 200'



VICINITY MAP
1" = 2000'

GENERAL NOTES

1. THE BOUNDARY SHOWN HEREON IS FROM PLAT 48/97.
2. THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY 615 TILE 028C3.
3. CENSUS TRACT: 401000 REGIONAL PLANNING DISTRICT: 305
WATERSHED: LOCH RAVEN RESERVOIR SUBWERSHED: NONE
SCHOOL DISTRICT: ELEMENTARY - SPARKS E.S.; MIDDLE - HEREFORD M.S.;
HIGH - HEREFORD H.S.
A.D.C. MAP & GRID: 13 A6
4. THERE ARE NO KNOWN PRIOR ZONING CASES ON THE SUBJECT PROPERTY.
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 PRIVATE WELLS AND SEPTIC SYSTEMS.
10. ALL APPARENT SEPTIC SYSTEMS, WELLS, AND SOIL PERCOLATION TESTS WITHIN 100' OF THE PROPERTY LINES WERE FIELD LOCATED.
11. THE SOIL TYPES SHOWN HEREON WERE TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP No. 13.

OWNER/DEVELOPER

ROBERT W. LANGE
KAREN O. LANGE
1718 GLENCOE ROAD
GLENCOE, MD 21152

PLAN TO ACCOMPANY A VARIANCE REQUEST LANGE PROPERTY

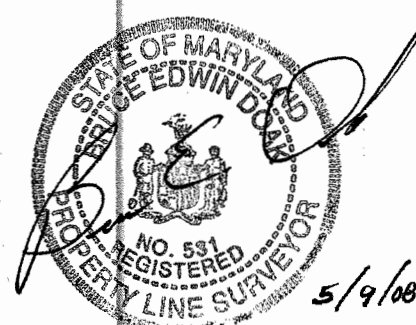
1718 GLENCOE ROAD
Deed Ref: S.M. No. 13598 folio 151
Tax Account No.: 19-00-004852
Zoned RC 2; 615 Tile 028C3
Tax Map 28; Grid 24; Parcel 156
10th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1"=60'

Date: APRIL 30, 2008

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

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



LEGEND

- EXISTING WELL
- PROPOSED DWELLING
- EXISTING BUILDING
- SOIL LINE
- WOODS LINE
- EXISTING PAVING
- PROPOSED PAVING
- PROPERTY LINE
- CONTOURS
- SLOPES ≥ 25%

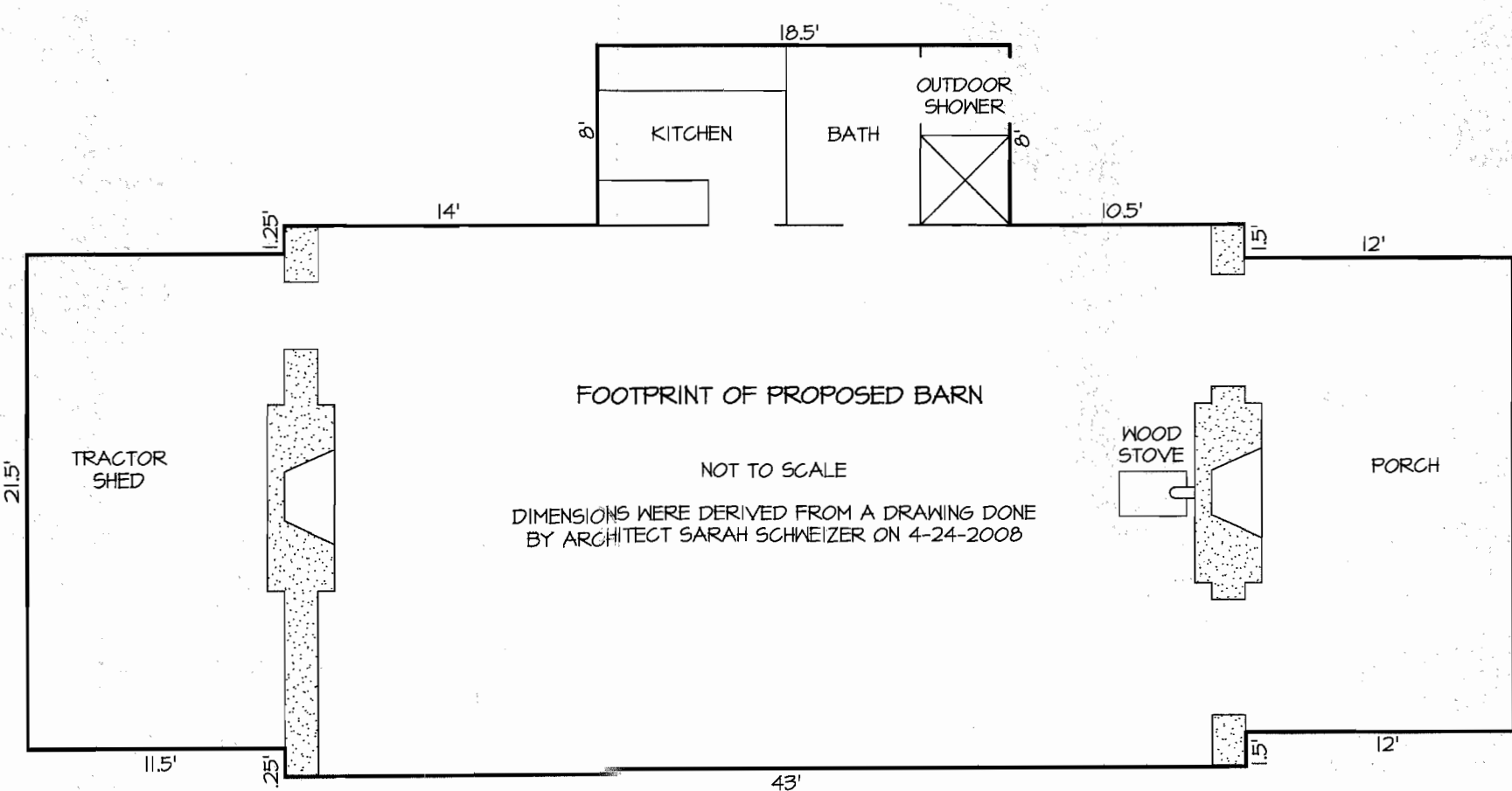
VARIANCE REQUESTED

TO PERMIT AN ACCESSORY STRUCTURE (BARN) WITH
A HEIGHT OF 25 FEET IN LIEU OF MAXIMUM 15 FEET
ALLOWED PER SECTION 400.3 OF THE B.C.Z.R.

TO PERMIT AN ACCESSORY STRUCTURE (BARN)
IN FRONT OF THE YARD IN LIEU OF REAR YARD
ALLOWED PER SECTION 400.1 OF THE B.C.Z.R.

SOIL TYPES & LIMITATIONS

TYPE	SEPTIC FILTER FIELDS	HOMESITES	BASEMENT	STREETS & PARKING
GcB2, MdB2	Slight	Slight		Moderate: slope
GnA, GnB	Severe: high water table; moderately slow permeability.	Severe: high water table		Severe: high water table
MdB2	Moderate: slope	Moderate: slope		Severe: slope



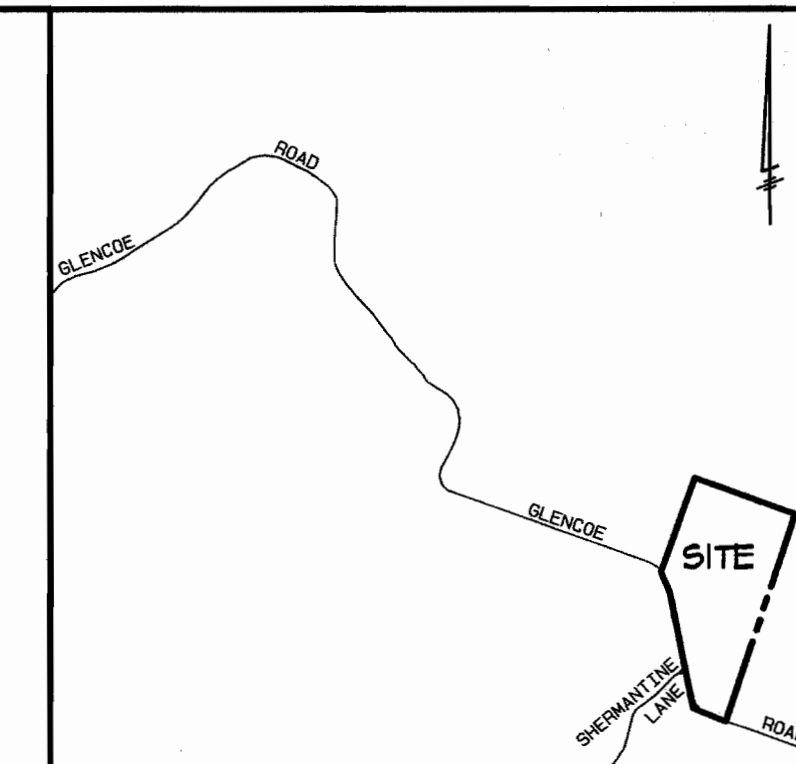
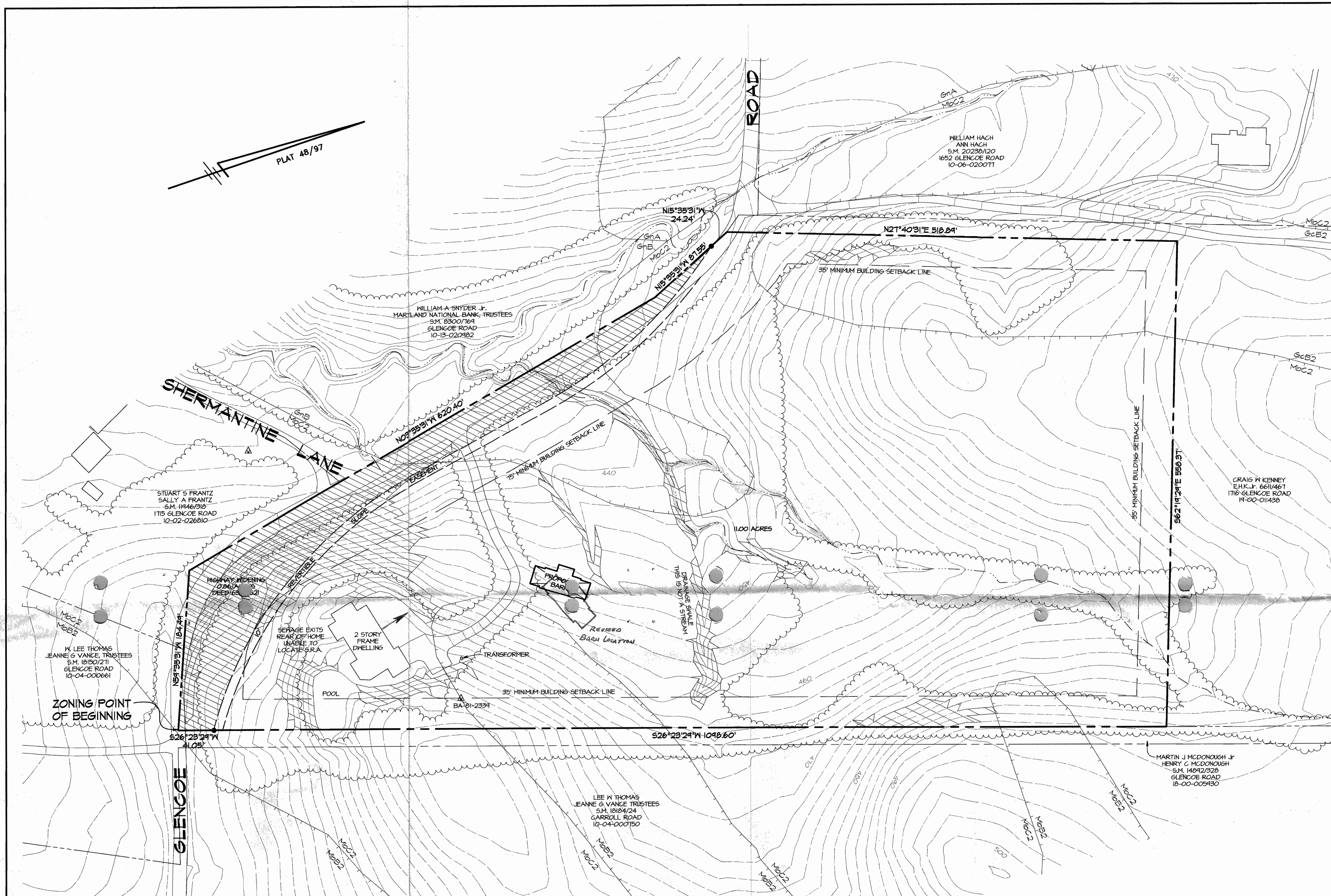
REVISION	DATE	COMPUTED	DRAWN: SMH	CHECKED

CASE NO 08-538-A

ROBERT AND KAREN LANGE

PETITIONERS' EXHIBITS

- ✓ 1. AMENDED SITE PLAN - RED LINE DRAWING.
- ✓ 2. SITE PLAN - SAME AS EXH. 1 WITHOUT RED LINE NOTES.
(CORRECTED TO MIRROR EXH. NO. 1)
- ✓ 3. PLAT OF MILTON I. FREY III PROPERTY
- ✓ 4. ZONING COMMISSIONER'S ORDER DATED 5/1/08.
- ✓ 5. AERIAL PHOTO OF LANGE AND KENNEY PROPERTY.
6. A-F PHOTOGRAPHS OF LANGE PROPERTY.
- ✓ 7. PLAN TO ACCOMPANY PHOTOGRAPHS.
- ✓ 8. PHOTOGRAPHS TAKEN 7/08 A-I, NOTED ON EXHIBIT NO. 7.
- ✓ 9. CASE NO. 06-429-A 4/14/06 GRANTING RELIEF ON 1363 BEAVER DAM^A
- ✓ 10. LETTERS IN SUPPORT OF PETITIONERS. (5)
- ✓ 11. EXHIBITS ATTACHED TO MOTIONS.



GENERAL NOTES

1. THE BOUNDARY SHOWN HEREON IS FROM PLAT 48/97.
2. THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY GIS TILE 020C3.
3. CENSUS TRACT: 410100 REGIONAL PLANNING DISTRICT: 305
- WATERSHED: LOCH RAVEN RESERVOIR SUBWERSHED: NONE
- SCHOOL DISTRICT: ELEMENTARY - SPARKS E.S.; MIDDLE - HEREFORD M.S.; HIGH - HEREFORD H.S.
- A.D.C. MAP & GRID: 13 A6
4. THERE ARE NO KNOWN PRIOR ZONING CASES ON THE SUBJECT PROPERTY.
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 PRIVATE WELLS AND SEPTIC SYSTEMS.
10. ALL APPARENT SEPTIC SYSTEMS, WELLS, AND SOIL PERCOLATION TESTS WITHIN 100' OF THE PROPERTY LINES WERE FIELD LOCATED.
11. THE SOIL TYPES SHOWN HEREON WERE TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP No. 13.
12. THE PROPOSED STRUCTURE WILL NOT HAVE A SECOND FLOOR AND WILL NOT HAVE ANY BEDROOMS. THE PROPOSED STRUCTURE WILL NEVER BE USED AS A DWELLING.

OWNER/DEVELOPER
ROBERT W. LANGE
KAREN O. LANGE
1718 GLENCOE ROAD
GLENCOE, MD 21152

2008-0528-A
PLAN TO ACCOMPANY
A VARIANCE REQUEST
LANGE PROPERTY

1718 GLENCOE ROAD
Deed Ref: S.M. No. 13598 folio 151
Tax Account No.: 19-00-004852
Zoned RC 2; GIS Tile 028C3
Tax Map 28; Grid 24; Parcel 156
10th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1"=60' Date: APRIL 30, 2008

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

Suite 100
320 East Townsontown Boulevard
Towson, Maryland 21286
(410) 833-4470

LEGEND

- EXISTING WELL
- PROPOSED DWELLING
- EXISTING BUILDING
- SOIL LINE
- WOODS LINE
- EXISTING PAVING
- PROPOSED PAVING
- PROPERTY LINE
- CONTOURS
- SLOPES > 25%

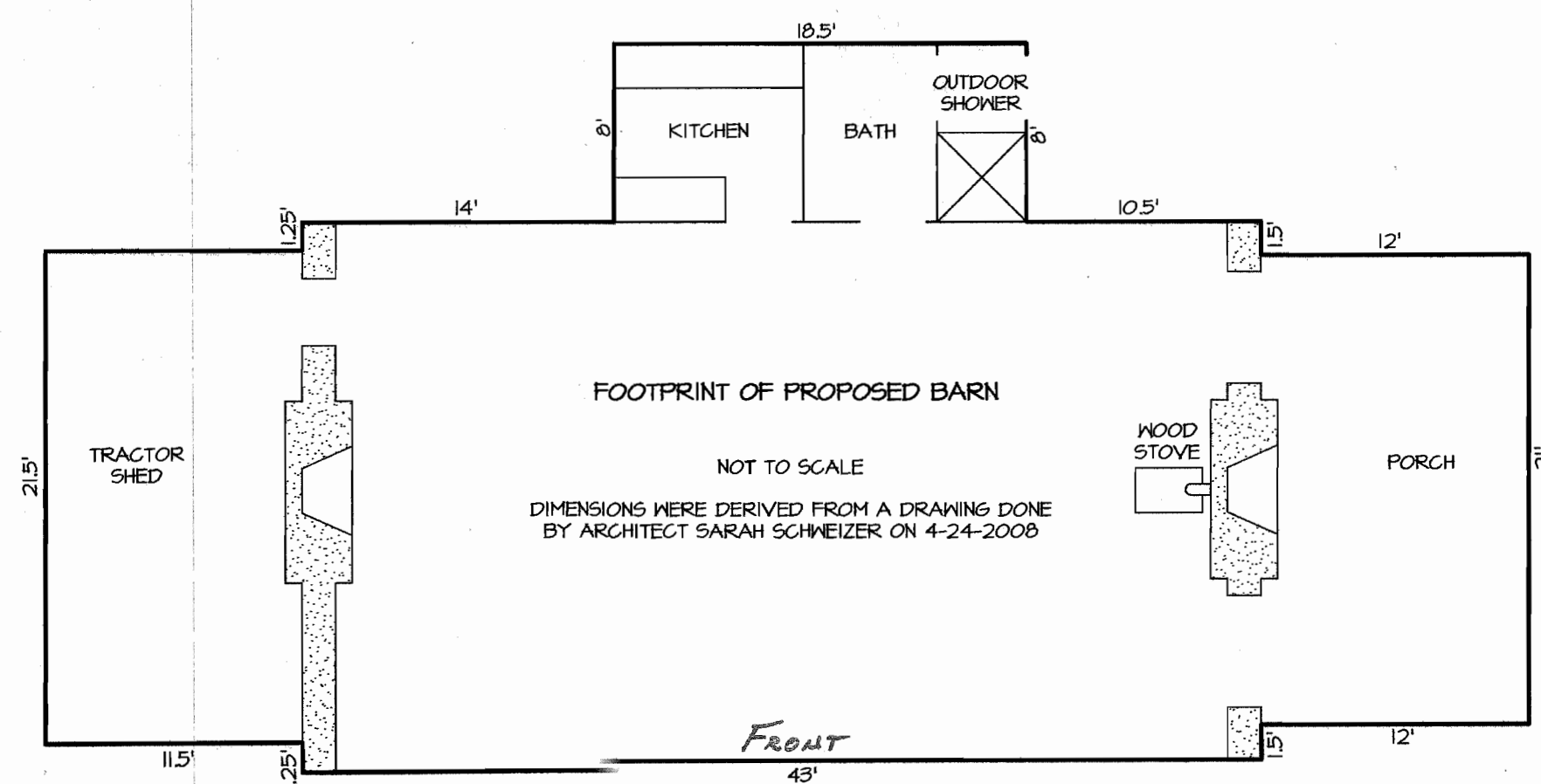
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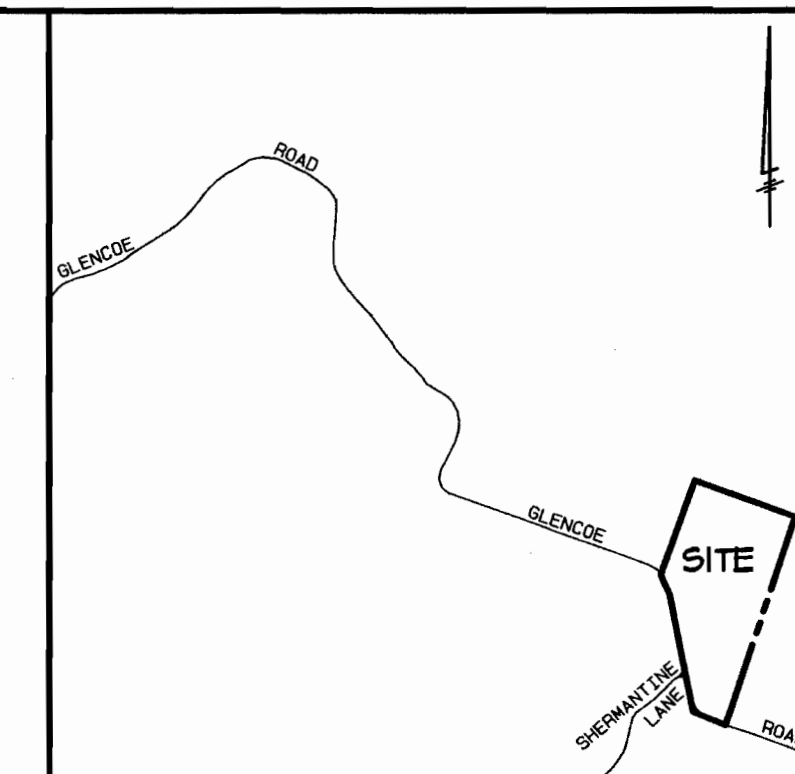
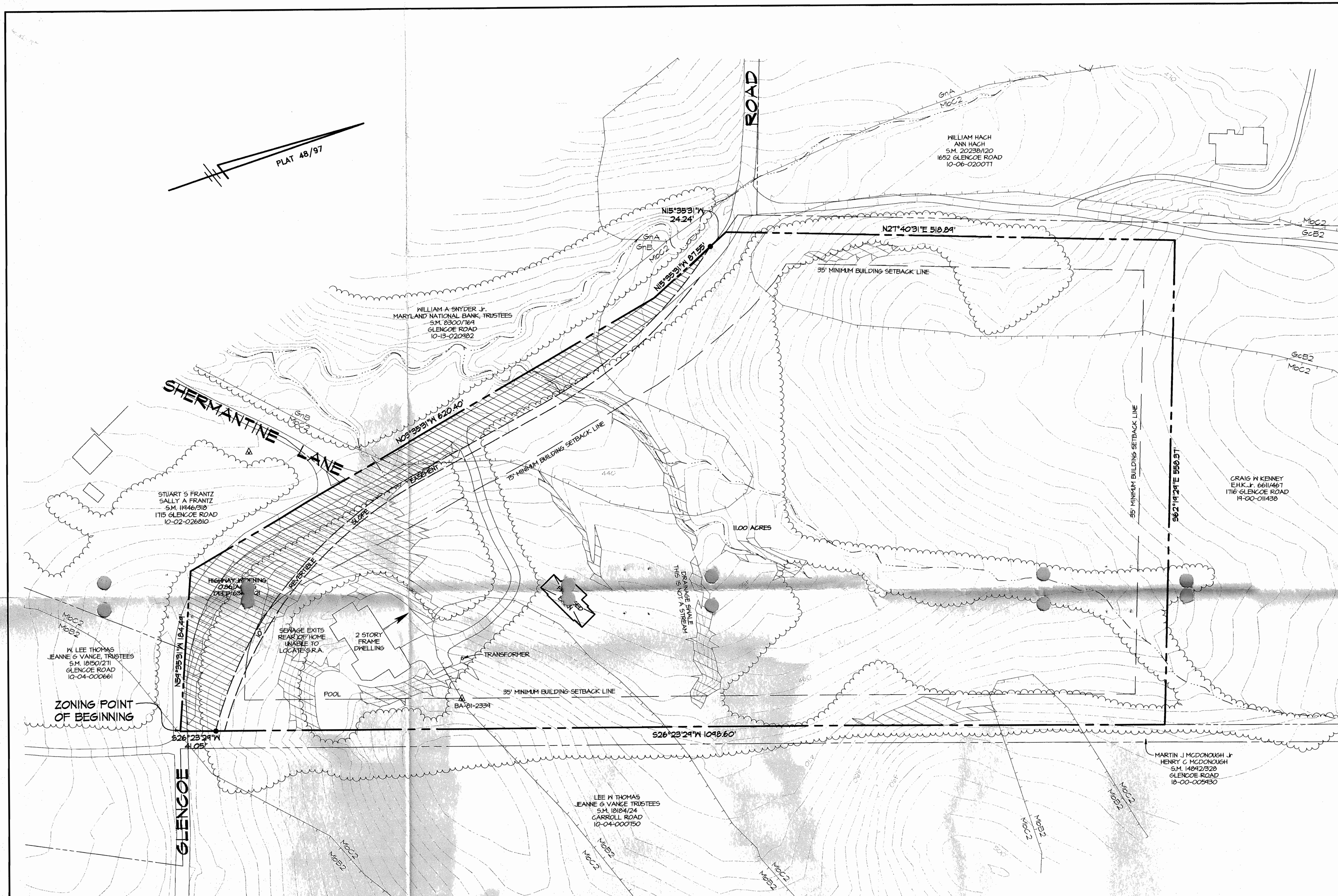
TO PERMIT AN ACCESSORY STRUCTURE (BARN) IN FRONT OF THE YARD IN LIEU OF REAR YARD ALLOWED PER SECTION 400.1 OF THE B.C.Z.R.

SOIL TYPES & LIMITATIONS

TYPE	SEPTIC FILTER FIELDS	HOMESITES w/BASEMENT	STREETS & PARKING
GcB2, MbB2	Slight	Slight	Moderate: slope
GnA, GnB	Severe: high water table; moderately slow permeability.	Severe: high water table	Severe: high water table
MbC2	Moderate: slope	Moderate: slope	Severe: slope



REVISION	DATE	COMPUTED	DRAWN: SMH	CHECKED:



VICINITY MAP
1" = 2000'

GENERAL NOTES

1. THE BOUNDARY SHOWN HEREON IS FROM PLAT 48/97.
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3. CENSUS TRACT: 410100 REGIONAL PLANNING DISTRICT: 305
WATERSHED: LOCH RAVEN RESERVOIR SUBWERSHED: NONE
SCHOOL DISTRICT: ELEMENTARY - SPARKS E5; MIDDLE - HEREFORD M5;
HIGH - HEREFORD H5.
A.D.C. MAP # GRID 13 A6
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11. THE SOIL TYPES SHOWN HEREON WERE TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP No. 13.
12. NOTE #12 FROM PETITIONER'S EXHIBIT CBA-1
INCORPORATED BY REFERENCE

OWNER/DEVELOPER
ROBERT W LANGE
KAREN O LANGE
1718 GLENCOE ROAD
GLENCOE, MD 21152

2008-0528-A
PLAN TO ACCOMPANY
A VARIANCE REQUEST
LANGE PROPERTY

1718 GLENCOE ROAD
Deed Ref: S.M. No. 13598 folio 151
Tax Account No.: 19-00-004852
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BALTIMORE COUNTY, MARYLAND

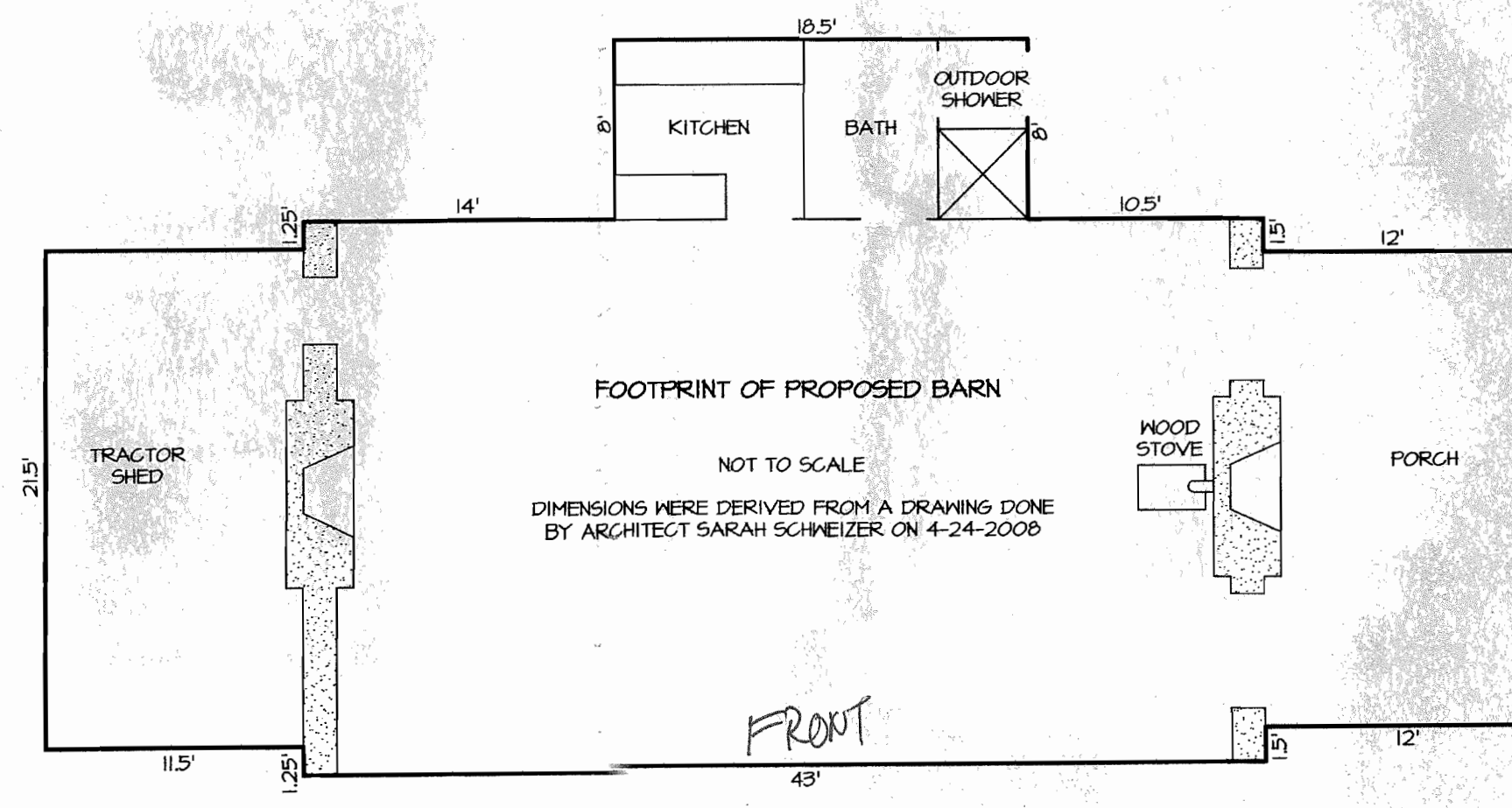


Scale: 1"=60' Date: APRIL 30, 2008

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

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

REVISION	DATE	COMPUTED	DRAWN	CHECKED
REVISED THE BARN PLACEMENT AND ORIENTATION IN THE ZONING HEARING RE-CREATED ON THIS PLAN	03/16/09			



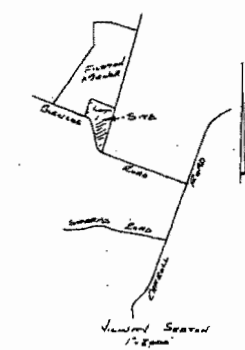
VARIANCE REQUESTED
TO PERMIT AN ACCESSORY STRUCTURE (BARN) WITH A HEIGHT OF 25 FEET IN LIEU OF MAXIMUM 15 FEET ALLOWED PER SECTION 400.3 OF THE B.C.Z.R.
TO PERMIT AN ACCESSORY STRUCTURE (BARN) IN FRONT OF THE YARD IN LIEU OF REAR YARD ALLOWED PER SECTION 400.1 OF THE B.C.Z.R.

SOIL TYPES & LIMITATIONS

TYPE	SEPTIC FILTER FIELDS	HOMESITES	STREETS & PARKING
GcB2, MbB2	Slight	Slight	Moderate: slope
GnA, GnB	Severe: high water table; moderately slow permeability.	Severe: high water table	Severe: high water table
MbC2	Moderate: slope	Moderate: slope	Severe: slope

LEGEND

EXISTING WELL	△
PROPOSED DWELLING	□
EXISTING BUILDING	□
SOIL LINE	—
WOODS LINE	—
EXISTING PAVING	—
PROPOSED PAVING	—
PROPERTY LINE	—
CONTOURS	—
SLOPES ≥ 25%	—



ALL-STATE LEGAL®
PETITIONER'S
EXHIBIT
CBA
3

ENK, JR. 48 FOLIO 97

Filed for record
Date JAN 8 1982
Text

[Signature]

PLAT OF
MILTON J. FIREY III PROPERTY
LOCATED IN
10th ELEC. DIST. BALTIMORE COUNTY, MARYLAND

DEED REF. R.I.S. No. 141/ Folio 347

Existing Zoning RC-2 * RC-1
Grass Area 6.9 Acs.
Lot 1 Zoning RC-2
No. of Lots 1 + Remaining Tract

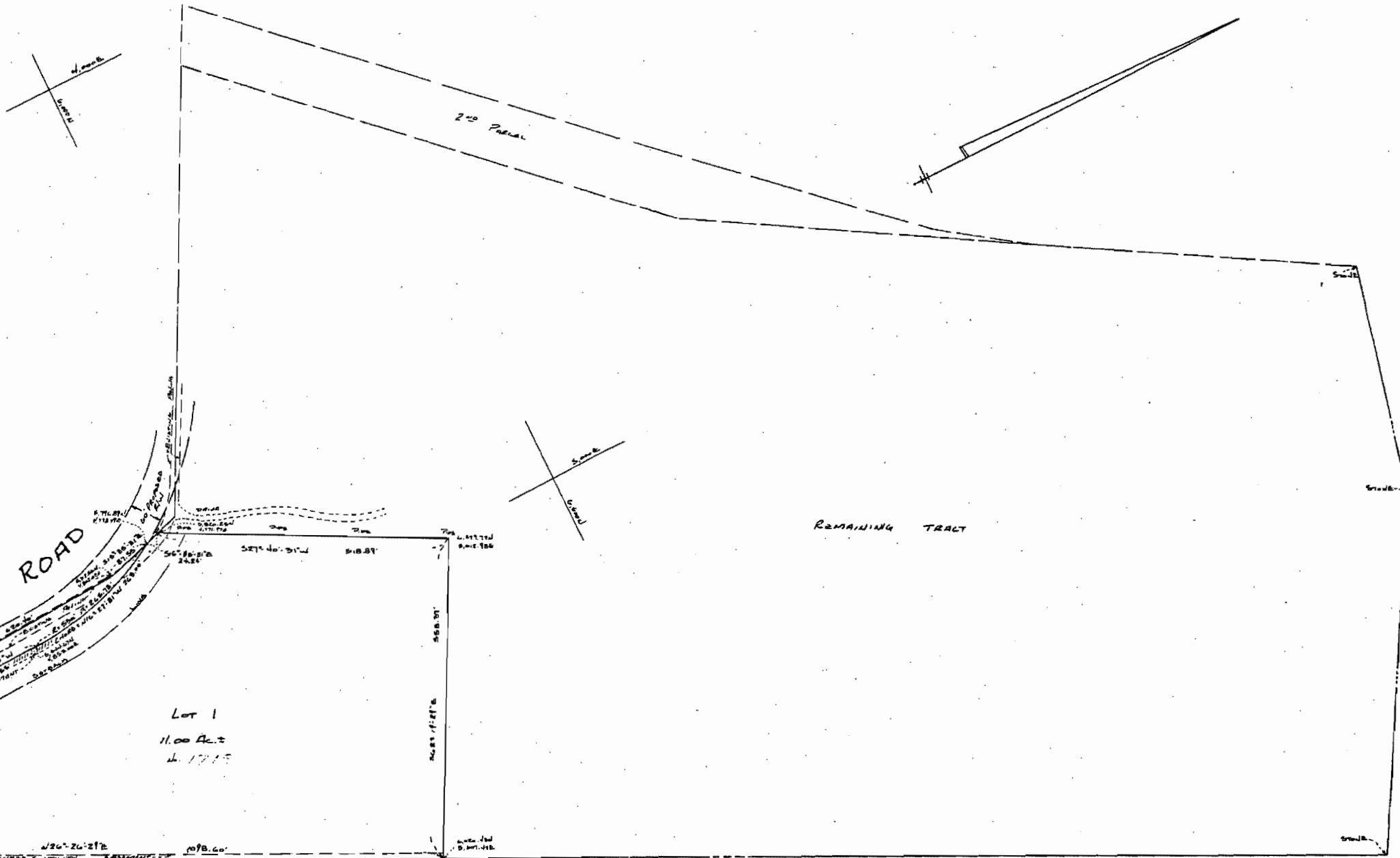
OWNER: **MILTON J. FIREY III**
Estate of **MILTON J. FIREY**
GLENCOE ROAD
GLENCOE, M.D. 21062



OWNER'S CERTIFICATE
THE UNDERSIGNED OWNER (S) OF THE LAND SHOWN HEREON HEREBY CERTIFY THAT TO THE BEST OF HIS KNOWLEDGE THE REQUIREMENT OF SUBSECTION (C) OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND HAS BEEN COMPLIED WITH INsofar AS THE STATE CONCERNED THE MAKING OF THIS PLAT AND THE SETTING OF MARKERS.

SURVEYOR'S CERTIFICATE
I, **JOHN F. ETZEL**, A REGISTERED PROFESSIONAL LAND SURVEYOR OF THE STATE OF MARYLAND, DO HEREBY CERTIFY THAT THE LAND SHOWN HEREON HAS BEEN LAID OUT AND THE PLAT THEREOF PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE LAW RELATING TO THE SUBDIVISION OF LAND PURSUANT TO HOUSE BILL NO. 459, CH. 106 OF THE ACTS OF 1966 AND SUBSEQUENT ACTS AMENDATORY THEREOF.

Scale 1"=100' November 12, 1981
GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL
LAND SURVEYORS
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
301-823-4470



Lot 1
11.00 Acs.
11/17/81

JEANNE V. DANCE

NOTES:
1. THE LAND SHOWN HEREON IS A PART OF THE ESTATE OF MILTON J. FIREY, DECEASED, AND IS BEING OFFERED TO THE PUBLIC BY THE BALTIMORE COUNTY PLANNING BOARD.

ALL THE LAND SHOWN HEREON IS SUBJECT TO THE EASEMENT OF THE BALTIMORE COUNTY PLANNING BOARD FOR THE CONSTRUCTION AND MAINTENANCE OF A HIGHWAY AND FOR THE PURPOSES OF THE BALTIMORE COUNTY PLANNING BOARD.

NOTES
1) STREET AND/OR ROADS AS SHOWN HEREON AND THE ATTENTION THEREOF IN DEEDS ARE FOR PURPOSES OF DEDICATION ONLY AND THE STATE ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE, THE FEE SIMPLE TITLE TO THE LAND THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.
2) HIGHWAY, HIGHWAY WIDENING, STATE, DRAINAGE, UTILITY EASEMENTS SHOWN HEREON ARE RESERVED UNTO THE DEVELOPER AND ARE HEREBY OFFERED TO BALTIMORE COUNTY, MARYLAND. THE DEVELOPER ITS SUCCESSIONS AND ASSIGNS, SHALL CONVEY SAID AREAS, BY DEED, TO BALTIMORE COUNTY, MARYLAND AT NO COST.

3) CO-ORDINATES AND BEARINGS SHOWN HEREON ARE REFERENCED TO AN ASSUMED SURVEY.
4) THIS PLAT MAY NOT BE JUDGED BY BALTIMORE COUNTY AFTER FIVE (5) YEARS FROM THE RECORDING DATE. SEE BALTIMORE COUNTY BILL #6-77 (SECTION 22-39.1)

HIGHWAYS DEPARTMENT OF BALTIMORE COUNTY
APPROVED FOR STREET ALIGNMENT AND LOCATION
[Signature] 11/18/81
Roads Engineer DATE
APPROVED FOR BALTIMORE COUNTY HEALTH DEPT.
[Signature] 11/18/81
DEPUTY STATE HEALTH OFFICE DATE
APPROVED FOR BALTO. CO. PLANNING BOARD
[Signature] 11/18/81
DIRECTOR DATE

IN RE: PETITION FOR VARIANCE

N/S Glencoe Road at its Intersection w/
Shermantine Lane
(1718 Glencoe Road)
10th Election District
3rd Council District
Robert W. Lange, et ux
Petitioners

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

Case No. 2008-0528-A

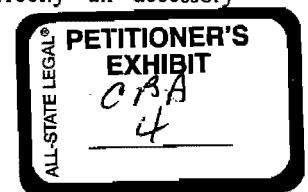
FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, Karen O. and Robert W. Lange. The Petitioners request variance relief from Section(s) 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (shown as a "barn" on the plan)¹, to be located in the front yard in lieu of the rear yard with a height of 25 feet in lieu of the permitted 15 feet. The subject property and requested relief are more particularly described on the amended site plan, which was accepted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the request were Karen O. Lange, property owner, and Bruce E. Doak, with Gerhold, Cross & Etzel, Ltd., the consultant who prepared the site plan for this property. Appearing as a Protestant was W. Craig Kenney, a property owner to the north of the subject property residing at 1716 Glencoe Road.

Testimony and evidence offered disclosed that the subject property is located on the north side of Glencoe Road opposite Shermantine Lane in Sparks-Glencoe not far from York Road

¹ Section 400 of the B.C.Z.R. pertains to accessory buildings in residential zones and mandates their location only in the rear ... with a height limitation of 15 feet. Sections 1A01.3A and 300.1 more specifically pertain to accessory structures in the Resource Preservation Zone and specifically state that the height of farm buildings and barns are an exception to Section 400. It became obvious, however, at the outset of the hearing that the accessory structure in this case is not a barn or "other accessory agricultural building" but more correctly an accessory recreational/clubhouse structure. It is, therefore, subject to the provisions of Section 400.

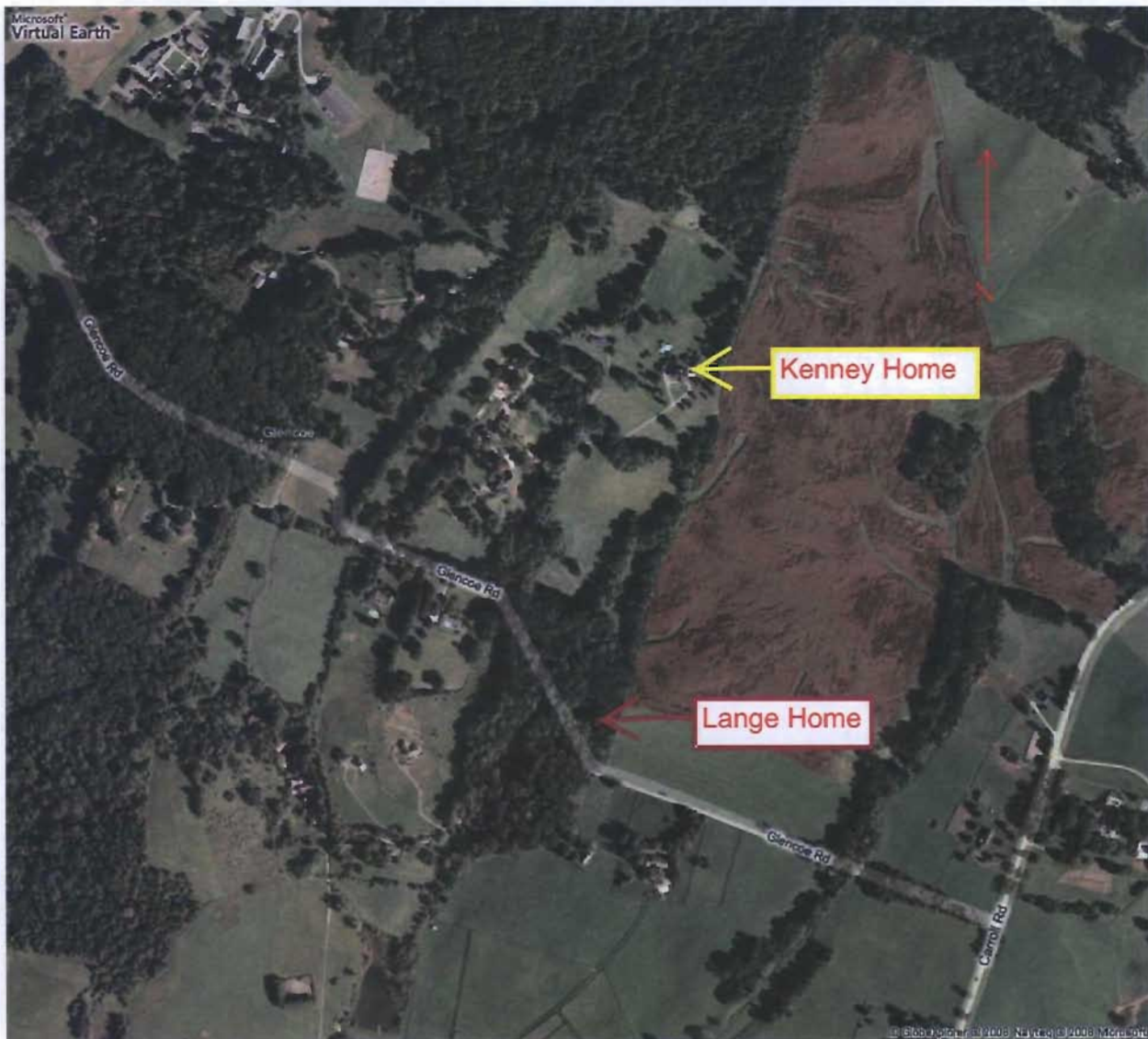




Live Search Maps

Lange Property in relation to Kenney Property

FREE! Use **Live Search 411** to find movies, businesses & more: **800-CALL-411**.



PETITIONERS'
EXHIBIT
CBA
5



PETITIONERS'
EXHIBIT
CBA
6 A







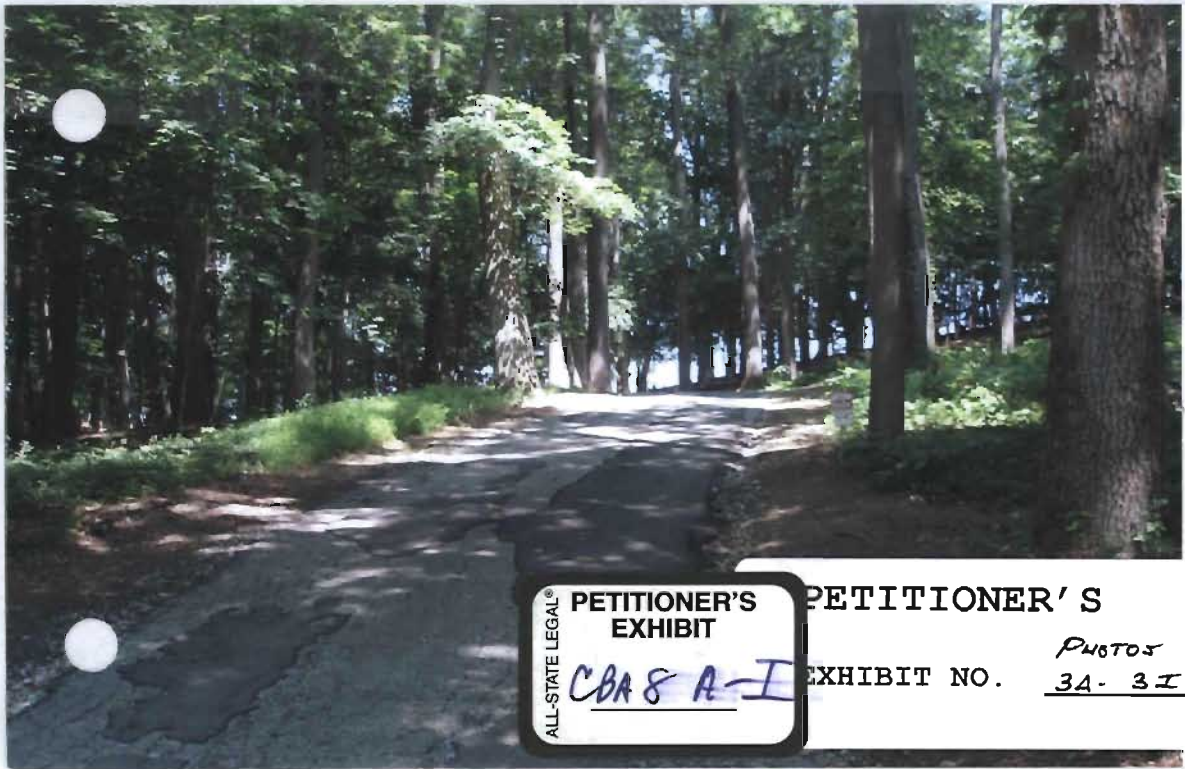
PETITIONERS'
EXHIBIT
CBA
6 D



PETITIONERS'
EXHIBIT
CBA
6 E



PETITIONERS'
EXHIBIT
CBA
6 F



ALL-STATE LEGAL®
PETITIONER'S
EXHIBIT
CBA 8 A-I

PETITIONER'S

PHOTOS
EXHIBIT NO. 3A- 3I





②



③



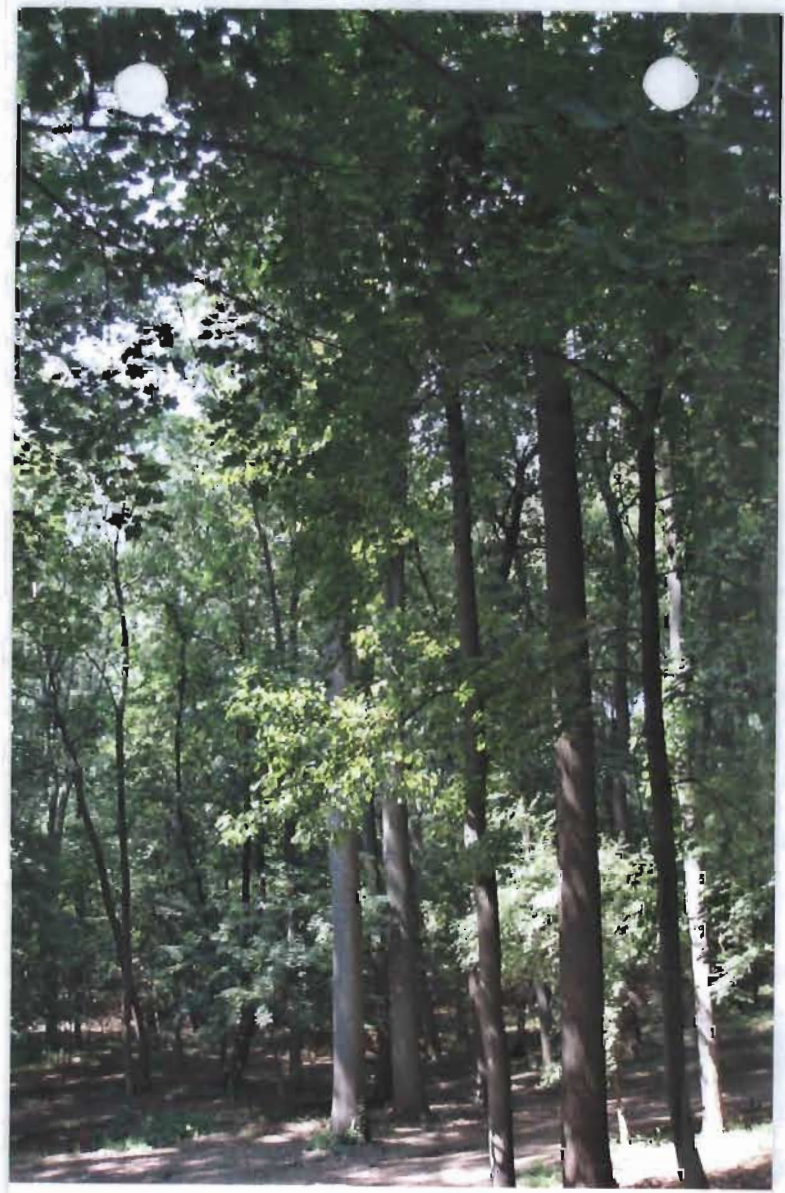
④



6



7



8

Mr. & Mrs. Gerald Maizlish

1623 Glencoe Road
Sparks, Maryland 21152

March 15, 2009

County Board of Appeals for Baltimore County
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

Re: Robert W. and Karen O. Lange, Petitioners/Owners
1718 Glencoe Road
Case No. 2008-0528-A

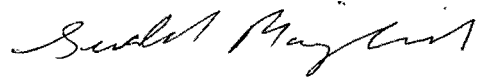
Dear Members of the Board:

We have been contacted by several neighbors, including the Langes, regarding the barn that the Langes want to build on their property. We understand that the proposed building needs to be in the front of their house due to the slope of their property. We've reviewed the site drawing and feel that the building will compliment their existing home without changing the feel of the community.

Unfortunately, we cannot attend the hearing one March 17, 2009. Therefore, we are asking that you accept this letter as evidence of our support. We have lived on Glencoe Road for 25 years and care about protecting the character of our community. The proposed building should blend in nicely in this rural setting, as well as provide the extra space needed by the Lange family.

If necessary, please feel free to contact us at 410-771-4030 or trophcede@aol.com.

Sincerely,



Gerald Maizlish



Betty L. Maizlish

cc: R.W. and K.O. Lange
W.W. Hach

CBA
PET
No. 10

County Board of Appeals for Baltimore County
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

RE: Robert W. and Karen O. Lange, Petitioners/Owners
1718 Glencoe Road
Case No. 2008-0528-A

Dear Members of the Board:

We have been contacted by our neighbors, the Langes, regarding the accessory building that they want to add to their home property. We have reviewed the site drawing showing the location and agree that due to the slope of their property the proposed building cannot be erected in the rear yard. However, given that the Lange property contains many large, mature trees and that the design of the proposed building will complement their home, in a similar design and roof line common to the community, we support the variance that the Langes have requested.

Unfortunately, we cannot attend the hearing on March 17, 2009. Therefore, we are asking that you accept this letter as evidence of our support. We have lived in the community for 9 years and are protective of our living environment. The proposed building will be similar to the many, many existing accessory buildings in our community and will provide the Lange family with an area for their children to entertain their friends and will also provide the Langes with the storage space they need as their home does not have a basement. We welcome parents that provide a safe, quality environment for their children to meet and congregate with their friends instead of allowing them to hang out in a mall or movie theatre.

Should you need additional information regarding our support, please do not hesitate to contact us.

Sincerely,

Laura-Lynn & Phillip Renner

1707 Glencoe Rd

410-472-6784

3-14-09

*CB
PET.
No. 10*

County Board of Appeals for Baltimore County
Suit 203, Jefferson Building
105 West Chesapeake Avenue
Towson, Maryland 21204

RE: Robert W. and Karen O. Lange, Petitioners/Owners
1718 Glencoe Road
Case No. 2008-0528-A

Dear Members of the Board,

Our neighbors, the Langes contacted us regarding a building they hope to build on their property. The Langes have provided us with the building plans of the accessory building that show the location and architectural design, which we have reviewed. Taking into account the overall slope of the property, the many mature trees living on the property, and the similar, as well as complimentary architectural features the building has to their existing residence, we support the variance that the Langes have requested.

Although we are unable to attend the hearing on March 17, 2009, we ask that you accept this letter as a form of our support for the Langes. We have been working every day for the last five years to restore a neighboring historic farm house, a short distance from the Lange's residence on Glencoe Road, and we have a vested interest in the neighborhood. As we understand, the building will be used for extra storage, as well as a place for the Lange family to entertain friends. The proposed accessory building on a property in our area for the Lange's intended use is very common, and adds a quality environment for children to meet.

Please contact us if any further information is needed regarding our support.

Thank you,



William and Ann Hach
1652 Glencoe Road
Sparks, Maryland 21152
(410) 377-5558

CBA
PET
No. 10

Stuart & Sally Frantz
1715 Glencoe Road
Sparks, MD. 21152
March 17, 2009
Suite: 203, Jefferson Building

County Board of Appeals for Baltimore County
105 W. Chesapeake Avenue
Towson, MD. 21204

RE: Robert W. and Karen O. Lange, Petitioners / Owners
1718 Glencoe Road
Case No. 2008-0528-A

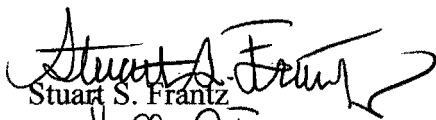
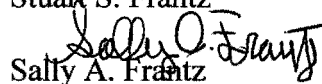
Dear Members of the Board:

We have been contacted by our neighbors; the Langes, regarding the accessory building that they want to add to their home property. We have reviewed the site drawing showing the location and agree that due to the slope of their property the proposed building cannot be erected in the rear yard. However, given that the Lange property contains many large, mature trees and that the design of the proposed building will complement their home, in a similar design and roof line common to the community, we support the variance that the Langes have requested.

Unfortunately, we probably cannot attend the hearing on March 17, 2009. Therefore, we are asking that you accept this letter as evidence of our support. We have lived in the community for 12 & ½ years and we are protective of our environment. The proposed building will be similar to the many, many accessory buildings in our community and will provide the Lange family with an area for their children to entertain their friends and will also provide the Langes with the storage space they need. We welcome active parents that provide a safe, quality environment for their children to meet and congregate with their friends instead of allowing them to hang out in a mall or movie theatre.

Should you need additional information regarding our support, please do not hesitate to contact us.

Sincerely,


Stuart S. Frantz

Sally A. Frantz

410-746-7094

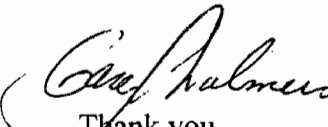


County Board of Appeals for Baltimore County
Suit 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

RE: Robert W. and Karen O. Lange, Petitioners/Owners
1718 Glencoe Road
Case Number 2008-0528-A

Dear Members of the Board,

I am unable to attend the Tuesday, March 17 hearing for this issue; however, I am asking that you accept this letter as evidence of my support for the Langes. I have been a part of the Glencoe neighborhood for many years and from the information provided to me about the Lange's proposed barn, I am in full support of their project. From what I understand, the building will be a tasteful and fitting improvement to the Lange's property.


Thank you,

CBA
PET.
No. 10

Baltimore County Code

CHARTER OF BALTIMORE COUNTY, MARYLAND* / ARTICLE V. THE ADMINISTRATIVE SERVICES / DIVISION 2. OFFICES OF THE ADMINISTRATIVE SERVICES / Subdivision 6. Office of Planning and Zoning / Sec. 524.1. People's counsel.

Sec. 524.1. People's counsel.

(a) The county executive shall appoint a people's counsel who shall represent the interests of the public in general in zoning matter as hereinafter set forth, subject, however, to confirmation by the county council, and such person so appointed shall continue to serve as people's counsel until such time as he or she resigns or has been removed pursuant to the provisions herein contained:

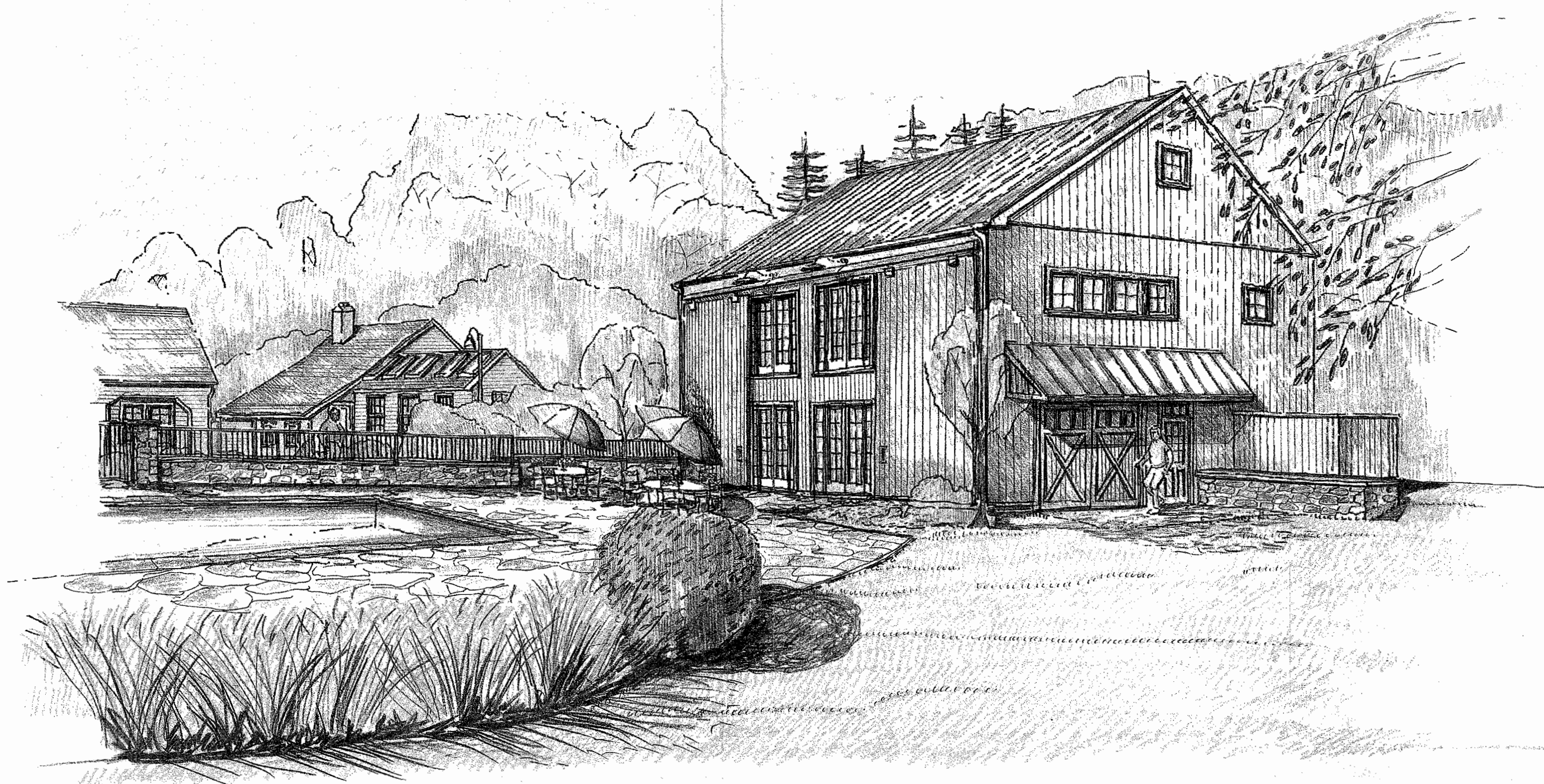
(1) *Qualifications:* The people's counsel shall be a resident of Baltimore County, a member in good standing of the Maryland Bar, and actively engaged in the general practice of law for at least five (5) years prior to his appointment.

(2) *Removal:* The people's counsel may be removed at any time on the recommendation of the county executive and with the affirmative vote of not less than a majority plus one of the total number of county council members established by this Charter. (Bill No. 90, 1978, § 1) (Approved by voters Nov. 7, 1978; effective Dec. 8, 1978)

(3) *Powers and duties:* The people's counsel shall have the following powers and duties:

A. He shall appear as a party before the zoning commissioner of Baltimore County, his deputy, the county board of appeals, the planning board, and the courts on behalf of the interests of the public in general, to defend any duly enacted master plan and/or comprehensive zoning maps as adopted by the county council, and in any matter or proceeding now pending or hereafter brought involving zoning reclassification and/or variance from or special exception under the Baltimore County Zoning Regulations, as now or hereafter in force and effect, in which he may deem the public interest to be involved. In defense of the zoning maps or master plan, he may appear as a party in interest before all state and federal agencies, boards, and courts on matters involving the preservation of the quality of the air, land, and water resources of Baltimore County, and/or may initiate such proceedings in the public interest. He shall have in such appearance, all the rights of counsel for a party in interest, including but not limited to the right to present his case, to cross examine, to object, to be heard, and to file and prosecute an appeal in his capacity as people's counsel from any order or act of the zoning commissioner of Baltimore County or his deputy, or of the county board of appeals to the courts as an aggrieved party pursuant to the provisions of Section 604 of this Charter to promote and protect the health, safety and general welfare of the community. The people's counsel may also prosecute an application before any state or federal court for injunctive and other relief incidental thereto, to enjoin violation of any Baltimore County zoning maps or master plan or as

ORA PET. No 11



Bosley - Warnock Residence
Pool House
New York, New York
Date: 09.08.07



IN RE: PETITION FOR ADMIN. VARIANCE * BEFORE THE
E/S Old Mill Road, 640' SE of the c/l
Pool Road * ZONING COMMISSIONER
(13023 Beaver Dam Road) * OF BALTIMORE COUNTY
8th Election District *
3rd Council District * Case No. 06-429-A
David Warnock & Deirdre Bosley
Petitioners *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Administrative Variance filed by the owners of the subject property, David Warnock and Deirdre Bosley. The Petitioners request variance relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (swimming pool) to be located in the side yard in lieu of the required rear yard, and from Section 400.3 of the B.C.Z.R. to permit an accessory structure (pool house) with a height of 28 feet in lieu of the maximum allowed 15 feet. The subject property and requested relief are more particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioner's Exhibit 1.

The Petition was filed through the administrative variance process, pursuant to Section 32-3-303 of the Baltimore County Code. That Section allows an individual to seek variance relief for an owner-occupied residential property without the need for a public hearing. Under the Code, the property in question is posted for a period of 15 days during which time any property owner residing within 1,000 feet of the property may demand a public hearing for a determination as to the merits of the request. Additionally, the Zoning Commissioner/Deputy Zoning Commissioner can schedule the matter for a public hearing if deemed appropriate.

In this case, the Petitioners have filed the supporting affidavits as required by Section 32-3-303 (a)(2)(i) of the Baltimore County Code. The subject property having been posted and there being no requests for a public hearing, a decision shall be rendered based upon the documentation contained within the case file.

Based upon the evidence contained therein, I am persuaded to grant the requested variance. Relief is necessitated given the property's unique configuration and site constraints associated therewith, as well as the location of existing improvements thereon. As shown on the site plan, the property is a large rectangular shaped parcel that features an extensive forest buffer easement area in the front yard. That portion of the property is also located within a 100-year floodplain. Thus, all of the existing improvements are located on the back portion of the lot. In addition, the house has been oriented such that the rear of the home faces a lengthy driveway that accesses the property. This driveway extends to the eastern boundary of the property and another garage, which will be razed to allow construction of the pool house in this location. The driveway also features a large macadam parking area to the rear of the home, and provides access to the house, another one-story garage and wood shed. Due to the unique configuration of the property and the location of existing improvements thereon, the swimming pool will be located in the side yard of the dwelling. Moreover, the proposed pool house will have a height of 28 feet, apparently to match the scale and architectural design of the existing three-story dwelling. In this regard, the Petitioners are reminded that the pool house cannot be converted for use as a separate dwelling unit or for commercial purposes. Thus, there can be no living or sleeping quarters provided and no kitchen or cooking facilities, and the building shall be limited to uses accessory to the primary use of the property for residential purposes.

There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency and the neighbors apparently support the proposal. In this regard, the nearest structure on the adjacent affected lot is a large barn and the house on that lot is located a significant distance away from the proposed swimming pool and pool house. Thus, it appears that the relief requested can be granted and that there will be no detrimental impact to adjacent properties or the surrounding locale.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 14th day of April 2006 that the Petition for Administrative Variance seeking relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (swimming pool) to be located in the side yard in lieu of the required rear yard, and from Section 400.3 of the B.C.Z.R. to permit an accessory structure (pool house) with a height of 28 feet in lieu of the maximum allowed 15 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are 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.
- 2) The pool house shall be limited to uses accessory to the residential use of the property. It shall not be used for commercial or business purposes. Moreover, the Petitioners shall not allow or cause any area of the pool house to be converted for use as a second dwelling unit and/or apartments. There shall be no living quarters contained therein, and no kitchen or cooking facilities provided.
- 3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

WJW:bjs

William J. Wiseman, III
WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County



ORDER RECEIVED FOR FILING
Date 4-14-06
By [Signature]

ORDER RECEIVED FOR FILING
Date 4-14-06
By [Signature]

ORDER RECEIVED FOR FILING
Date 4-14-06
By [Signature]

CASE NO. 08-538-A

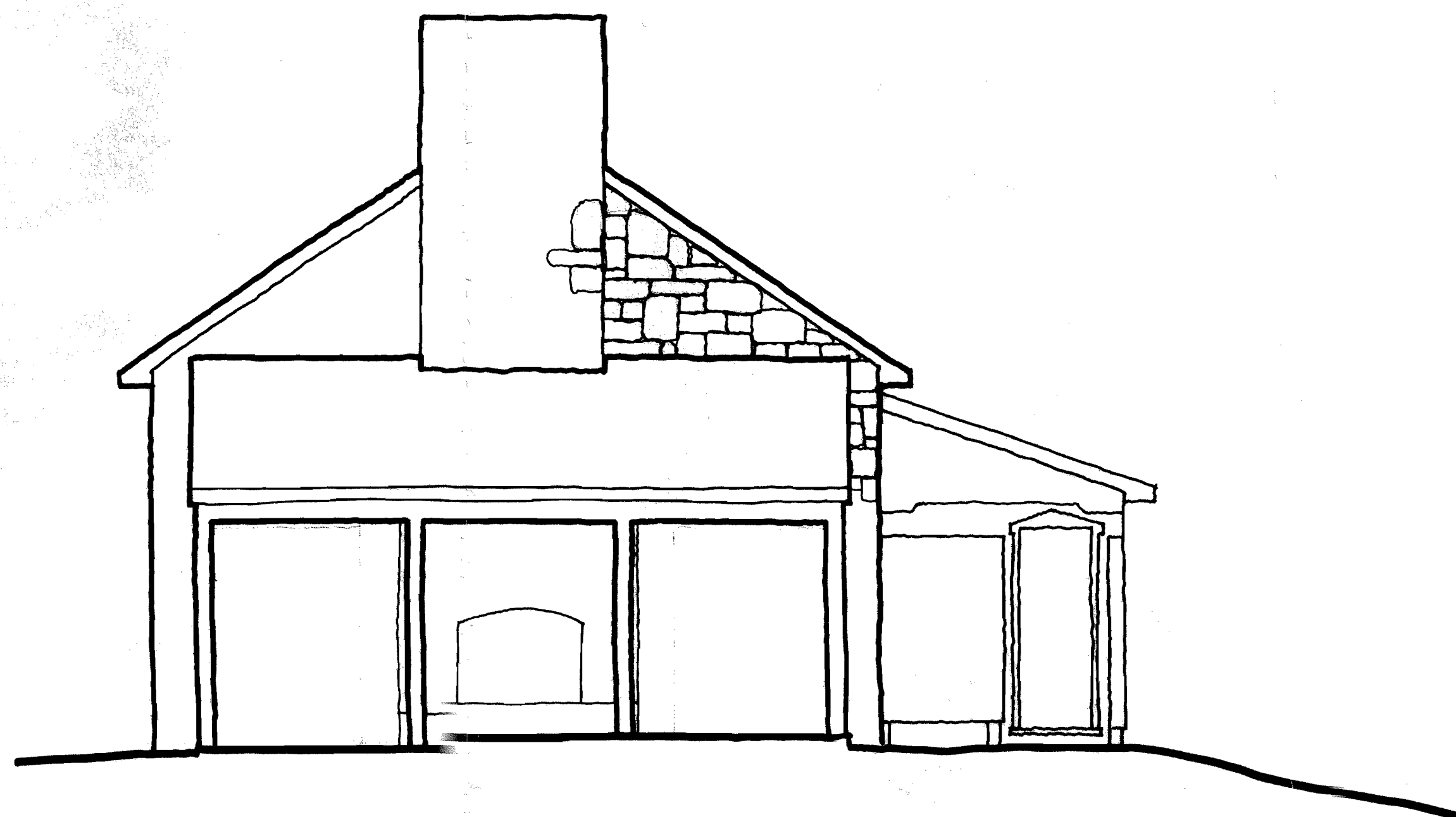
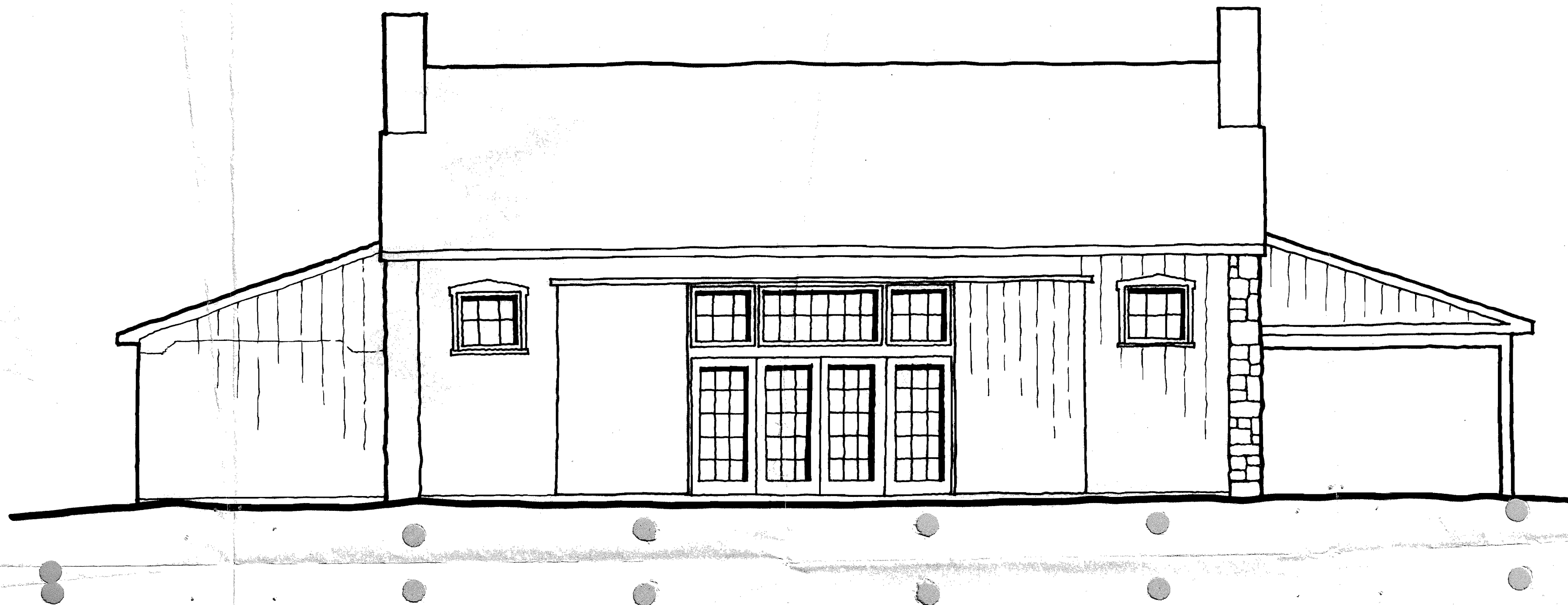
ROBERT ANN KAREN LANGE

PROTESTANT'S EXHIBITS

- ✓ 1. ARCHITECTS DRAWING OF THE SUBJECT STRUCTURE
- ✓ 2. ^{REAR OF} PHOTOGRAPH OF LANGE DWELLING, FROM GLENCOE RD. 3/09
- ✓ 3. SD of A-T FOR LANGE PROPERTY.
- ✓ 4. DEED FOR THE LANGE PROPERTY.
- ✓ 5. AMENDMENT TO DEED ~~DE~~ OF TRUST
- ✓ 6. A. ~~DEED~~ MD OF A-T MONOTYPE ACQ } NOT ENTERED
B. " " " "
- ✓ 7. A. ARTICLES OF ORGANIZATION OF BUSINESS.
✓ B. ARTICLES OF TRANSFER OF BUSINESS } OBJECTED TO
✓ C. ARTICLES OF AMENDMENT } AS PETITIONER
- ✓ 8. PHOTOGRAPH OF ~~LARGE~~ VOLLEY BALL COURT.
- ✓ 9. PHOTOGRAPH OF MAN MOWING LAWN.
- ✓ 10. PHOTOGRAPH TAKEN AFTER ZONING COMM'S HEARING OF WORKERS CLEARING AREA NEAR STREAM.
- ✓ 11. PHOTOGRAPH OF CLEARED AREA.
- ✓ 12. PHOTOGRAPH OF CLEARED AREA.
- ✓ 13. PHOTOGRAPH OF MEADOW OR FIELD 3/15/09
- ✓ 14. PHOTOGRAPH OF STREAM AREA WITH STONE (BLUE)
- ✓ 15. PHOTOGRAPH OF STREAM N/SIDE GLENCOE RD. 8/08.
- ✓ 16. " "

PROTESTANTS EXHIBITS.

1 16 PHOTOGRAPH NORTH OF STREAM



CBA Proj
Ex 1



CBA Prot Ex 2



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

Go Back
View Map
New Search

Account Identifier: District - 10 Account Number - 1900004852

Owner Information

Owner Name:	LANGE ROBERT W LANGE KAREN O	Use:	RESIDENTIAL
		Principal Residence:	YES
Mailing Address:	1718 GLENCOE RD GLENCOE MD 21152-9324	Deed Reference:	1) /13598/ 151 2)

Location & Structure Information

Premises Address	Legal Description
1718 GLENCOE RD	11.00 AC 1718 GLENCOE RD MILTON F FIREY, 3RD PROP

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
28	24	156					1	2	Plat Ref: 48/ 97

Special Tax Areas

Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1986	3,351 SF	11.00 AC	04
Stories	Basement	Type	Exterior
1 1/2	NO	STANDARD UNIT	SIDING

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2008	07/01/2008	07/01/2009
Land	212,500	306,000		
Improvements:	382,760	565,840		
Total:	595,260	871,840	687,453	779,646
Preferential Land:	0	0	0	0

Transfer Information

Seller: MCFADDEN ROBERT B	Date: 03/16/1999	Price: \$470,000
Type: IMPROVED ARMS-LENGTH	Deed1: /13598/ 151	Deed2:
Seller: ZORN GORDON J	Date: 06/13/1985	Price: \$92,500
Type: IMPROVED ARMS-LENGTH	Deed1: / 6933/ 706	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:
 * NONE *

CBA
 P 3

Return to
Robert W. Lange
Karen O. Lange
1718 Science Road
Sparks, MD 21152

0013598 151

OPF Title Services, L.L.C.
22 W. Padonia Road, Suite B-328
Timonium, MD 21093
410-252-1208

2993182R

THIS DEED, Made this 1st day of March, 1999, by and between **Robert B. McFadden and Marlys S. McFadden**, husband and wife, parties of the first part, Grantors, and **Robert W. Lange and Karen O. Lange**, husband and wife, parties of the second part, Grantees.

WITNESSETH, that in consideration of the sum of Four Hundred Seventy Thousand and 00/100 DOLLARS (\$470,000.00) 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 parties of the second part, as tenants by the entireties, their assigns, the survivor of them, 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:

SEE SCHEDULE A ATTACHED HERETO AND MADE A PART HEREOF.

BEING the same property which by Deed dated June 12, 1985 and recorded among the Land Records of Baltimore County in Liber No. 6933, folio 706, was granted and conveyed by Gordon J. Zorn and Christine L. Zorn, his wife, unto Robert B. McFadden and Marlys S. McFadden, husband and wife, 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 parties of the second part, as tenants by the entireties, their assigns, the survivor of them, their 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 A. Wildesen
Carol Ann Wildesen, Esquire

CBA

PROT

41

AMENDMENT TO AND CONFIRMATION OF INDEMNITY DEED OF TRUST

THIS AMENDMENT TO AND CONFIRMATION OF INDEMNITY DEED OF TRUST (this "Amendment") is made as of the 17 day of June, 2005, by and among Robert W. Lange and Karen O. Lange (the "Grantor"), MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY (the "Lender") and Nancy Bell, trustee ("Trustee") for the benefit of the Lender.

RECITALS

On January 23, 2004, the Grantor executed and delivered to the Trustee and Thomas W. Hodgins, trustees (the "Trustees") for the benefit of the Lender, an Indemnity Deed of Trust covering property known as 1718 Glencoe Road, Baltimore, Maryland, which instrument was recorded among the Land Records of Baltimore County, Maryland in Liber 19581, folio 593, as amended by an Amendment to and Confirmation of Deed of Trust dated April 6, 2004 and recorded among the Land Records of Baltimore County, Maryland in Liber 20574, folio 650 and by an Amendment to and Confirmation of Deed of Trust dated November 18, 2004 and recorded among the Land Records of Baltimore County, Maryland in Liber 21115, folio 588 (collectively, the "Indemnity Deed of Trust") for the purpose of securing the guaranty of the Grantor of all of the obligations of Monotype Acquisition, LLC (the "Borrower") to the Lender.

The Lender and the Borrower have agreed to increase the amount of the indebtedness secured by the Indemnity Deed of Trust and the parties hereto are desirous of amending and confirming the Indemnity Deed of Trust in connection with such increase and removing any limitation in the amount secured by the Indemnity Deed of Trust so that the Indemnity Deed of Trust secures all obligations guaranteed by the Grantor.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Indemnity Deed of Trust is hereby amended so that the first recital is amended and restated in its entirety as follows:

The Lender has agreed to make loans (the "Loans") or to otherwise extend credit to MONOTYPE ACQUISITION, LLC (the "Borrower") as evidenced by various promissory notes (collectively, the "Note") issued by the Borrower to the order of the Lender (the "Lender and any assignee or other lawful owner of the Note being hereinafter sometimes referred to as the "Holder") at any time and from time to time at its office or at such other place as may be designated in writing by the Holder, with interest thereon, all at the rates and on the terms set forth in the Note.

2. The Grantor hereby agrees and confirms that the lien of the Indemnity Deed of Trust shall continue in full force and effect, as amended herein for the purpose of removing any limitation in the amount secured by the Indemnity Deed of Trust, and the Grantor hereby confirms the grant, assignment and conveyance to the Trustees of the property described in the Indemnity Deed of Trust.

3. This Amendment shall in no way operate as a novation, release or discharge of the Indemnity Deed of Trust.

Pre
CBA

**Maryland Department of Assessments and Taxation****Taxpayer Services Division**

301 West Preston Street W Baltimore, MD 21201 (2007 vw3.1)

[Main Menu](#) | [Security Interest Filings \(UCC\)](#) | [Business Entity Information](#)
([Charter/Personal Property](#)) [New Search](#) | [Rate Stabilization Notices](#) | [Get Forms](#) | [Certificate of Status](#) | [SDAT Home](#)

Taxpayer Services Division**Entity Name: MONOTYPE ACQUISITION, LLC****Dept ID #: W07726920****General Information Amendments Personal Property Certificate of Status**

Principal Office
(Current): 1718 GLENCOE ROAD
GLENCOE, MD 21152

Resident Agent
(Current): KAREN LANGE
1718 GLENCOE ROAD
GLENCOE, MD 21152

Status: ACTIVE

Good Standing: Yes

Business Code: Other

Date of
Formation or
Registration: 01/06/2004

State of
Formation: MD

Stock/Nonstock: N/A

Close/Not Close: Unknown

Link Definition

General Information General information about this entity
Amendments Original and subsequent documents filed
Personal Property Personal Property Return Filing Information and Property Assessments
Certificate of Status Get a Certificate of Good Standing for this entity

CPA Post GA

**Maryland Department of Assessments and Taxation****Taxpayer Services Division**

301 West Preston Street in Baltimore, MD 21201 (2007 vw3.1)

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Taxpayer Services Division

Entity Name: MONOTYPE, LLC
Dept ID #: W07726920

General Information Amendments Personal Property Certificate of Status

Principal Office
(Current): 1718 GLENCOE ROAD
GLENCOE, MD 21152

Resident Agent
(Current): KAREN LANGE
1718 GLENCOE ROAD
GLENCOE, MD 21152

Status: ACTIVE

Good Standing: Yes

Business Code: Other

Date of
Formation or 01/06/2004
Registration:

State of
Formation: MD

Stock/Nonstock: N/A

Close/Not Close: Unknown

Link Definition

General Information	General information about this entity
Amendments	Original and subsequent documents filed
Personal Property	Personal Property Return Filing Information and Property Assessments
Certificate of Status	Get a Certificate of Good Standing for this entity

CBA Pmt CB

CORPORATE CHARTER APPROVAL SHEET

**** KEEP WITH DOCUMENT ****

DOCUMENT CODE 40 BUSINESS CODE _____

Close _____ Stock _____ Nonstock _____

P.A. _____ Religious _____

Merging (Transferor) _____

Surviving (Transferee) _____



ID # M07726920 ACK # 1200361989234681
LIBER: 000599 FOLIO: 1273 PAGES: 0003
MONOTYPE ACQUISITION, LLC

01/06/2004 AT 02:57 P NO # 0000032310

New Name _____

FEES REMITTED

Base Fee: 100

Org. & Cap. Fee: _____

Expedite Fee: 70

Penalty: _____

State Recordation Tax: _____

State Transfer Tax: _____

1 Certified Copies Copy Fee: 23

Certificates _____

Certificate of Status Fee: _____

Personal Property Filings: _____

Other: _____

TOTAL FEES: 193

Credit Card _____ Check ☒ Cash _____

Documents on _____ Checks _____

Approved By: 14

Keyed By: _____

COMMENT(S): _____

- _____ Change of Name
- _____ Change of Principal Office
- _____ Change of Resident Agent
- _____ Change of Resident Agent Address
- _____ Resignation of Resident Agent
- _____ Designation of Resident Agent and Resident Agent's Address
- _____ Change of Business Code

_____ Adoption of Assumed Name

_____ Other Change(s)

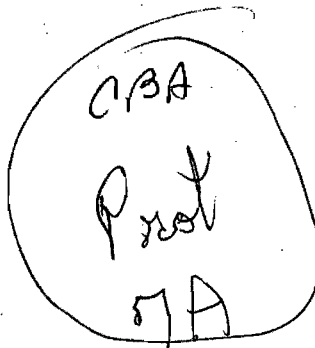
Code 063

Attention: Julie Wilhelm

Mail to Address: _____

CUST ID: 0001279021
WORK ORDER: 0000832310
DATE: 01-06-2004 02:57 PM
AMT. PAID: \$193.00

Stamp Work Order and Customer Number HERE



CORPORATE CHARTER APPROVAL SHEET

** EXPEDITED SERVICE **

** KEEP WITH DOCUMENT **

DOCUMENT CODE 12 BUSINESS CODE _____

Close _____ Stock _____ Nonstock _____

P.A. _____ Religious _____

Moving (Transferor) The Monotype Composition Co.

000154815

Moving (Transferee) Monotype Acquisition LLC

W07726920



1000361989337237

ID # 000154815 ACK # 1000361989337237
LIBER: 000009 FOLIO: 0263 PAGES: 0004
THE MONOTYPE COMPOSITION COMPANY

01/27/2004 AT 10:26 AM W0 # 0000840540

New Name _____

FEES REMITTED

Base Fee: 100
Org. & Cap. Fee: _____
Expedite Fee: 50
Penalty: _____
State Recordation Tax: _____
State Transfer Tax: _____
Certified Copies _____
Copy Fee: _____
Certificates _____
Certificate of Status Fee: _____
Personal Property Filings: _____
Other: _____
TOTAL FEES: 150

Credit Card _____ Check X Cash X

Documents on 6 Checks

Approved By: 6

Ceyed By: _____

COMMENT(S):

Change of Name _____
Change of Principal Office _____
Change of Resident Agent _____
Change of Resident Agent Address _____
Resignation of Resident Agent _____
Designation of Resident Agent _____
and Resident Agent's Address _____
Change of Business Code _____
Adoption of Assumed Name _____
Other Change(s) _____

Code 113

Attention: C. Martin

Mail to Address: _____

HB

CUST ID: 0001294756
WORK ORDER: 0000840540
DATE: 01-27-2004 10:26 AM
AMT. PAID: \$150.00

Stamp Work Order and Customer Number HERE

CBA
Pset 17 B

CORPORATE CHARTER APPROVAL SHEET

****EXPEDITED SERVICE****

**** KEEP WITH DOCUMENT ****

DOCUMENT CODE 41A BUSINESS CODE _____

W 7726 920

Close _____ Stock _____ Nonstock _____

P.A. _____ Religious _____

Merging (Transferor) _____

Surviving (Transferee) _____



1000361991941265

ID # W07726920 ACK # 1000361991941265
LIBER: 000860 FOLIO: 0321 PAGES: 0002
MONOTYPE, LLC

MAIL
BACK

09/26/2005 AT 09:44 A WO # 0001118115

New Name monotype, LLC

FEES REMITTED

Base Fee: <u>1.00</u>	✓ Change of Name
Org. & Cap. Fee: _____	Change of Principal Office
Expedite Fee: <u>1.10</u>	Change of Resident Agent
Penalty: _____	Change of Resident Agent Address
State Recordation Tax: _____	Resignation of Resident Agent
State Transfer Tax: _____	Designation of Resident Agent
<u>2</u> Certified Copies	and Resident Agent's Address
<u>2</u> Certificates	Change of Business Code
Copy Fee: <u>23</u>	Adoption of Assumed Name
Certificate of Status Fee: <u>21</u>	Other Change(s)
Personal Property Filings: _____	
Mail Processing Fee: <u>5</u>	
Other: _____	
TOTAL FEES: <u>259</u>	

Credit Card ☒ Check _____ Cash _____

Code _____

Documents on _____ Checks _____

Attention: _____

Approved By: msd13

Mail: Name and Address Richard Bison

Keyed By: _____

3600 Clipper Mill Rd

COMMENT(S):

310

Balt Md 21211

CUST ID: 0001675077
WORK ORDER: 0001118115
DATE: 09-27-2005 08:30 PM
AMT. PAID: \$259.00





CBA
Prot 8



ABA
Print 9



CBA Prot 10



CBA Plot 11



CBA April 12



CBA Post 175



CBA Post 124

Stream – Looking north from Glencoe Road and onto Lange's property showing running water



CBA P4
1201 15

Stream – Looking north from Glencoe Road and onto Lang's property
showing running water



CBA Post 178

16