

IN RE: PETITION FOR ADMIN. VARIANCE
W side of Ellen's Choice Way, 467 feet SE of
c/l of Rayville Road
6th Election District
3rd Councilmanic District
(8 Ellen Choice Way)

Julian S. Clarke 3rd and Lisa Clarke
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2009-0065-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Julian S. Clarke 3rd and Lisa Clarke for property located at 8 Ellen Choice Way. The variance request is from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a front yard setback of 29 feet and a side yard setback of 20 feet in lieu of the minimum required 50 feet respectively, and to amend the final development plan of Ellen's Choice, Lot 8 only. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners desire to construct a one-story addition measuring 28 feet x 38 feet. The proposed addition will be used as a residence for the Petitioners' mother and will contain a bedroom, bath, small kitchen and a living and dining area. Due to the architectural layout of the existing dwelling, the area selected for the addition is the only suitable location to place the addition without impacting the livable area of the dwelling. The septic system is located behind the house and prevents adding onto the rear of the dwelling. Because of the location of the dwelling on the lot, steep slopes and the septic area in the rear of the property, the addition cannot be built without the requested variance relief. The subject property contains 2.697 acres.

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10-20-08
[Signature]

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated September 30, 2008 which indicates that they do not oppose the Petitioners' request provided the addition is constructed using exterior building materials similar to that of the existing structure. Relief is also subject to the condition of the Declaration to be filed after such relief is granted. The kitchen facilities shall be removed from the addition after the Petitioners' mother no longer occupies such.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on September 13, 2008 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.


Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 2nd day of October, 2008 that a variance from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a front yard setback of 29 feet and a side yard setback of 20 feet in lieu of the minimum required 50 respectively, and to amend the final development plan of Ellen's Choice, Lot 8 only is hereby GRANTED, subject to the following:

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10-2-08
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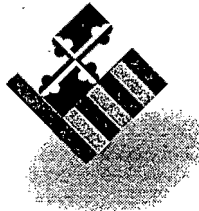
1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioners shall execute and file a Declaration of Understanding for In-Law Quarters with the Department of Permits and Development Management.
3. The in-law quarters must be used only by the Petitioners' mother and not for rental/income purposes.
4. The Petitioners shall record a copy of this Order in the Land Records of Baltimore County.
5. In the event that the Petitioners' mother no longer residents at the subject dwelling, the residence shall not be converted to a 2-two family dwelling.
6. When applying for a building permit, the site plan 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 of this Order.


THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

ORIGINAL FILED FOR FILED
10-2-08
M



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

October 2, 2008

JULIAN S. CLARKE 3RD AND LISA CLARKE
8 ELLEN CHOICE WAY
PARKTON MD 21120

Re: Petition for Administrative Variance
Case No. 2009-0065-A
Property: 8 Ellen Choice Way

Dear Mr. and Mrs. Clarke:

Enclosed please find the decision rendered in the above-captioned case. The petition for Administrative Variance has been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas H. Bostwick", written over a printed name.

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

Enclosure

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 8 Ellen's Choice Way
Address
Parkton MD 21120
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

The proposed addition will be used as a residence for the owner's mother. The addition contains a bedroom/bath, small kitchen, and a living and dining area. Due to the architectural layout of the existing dwelling, the area selected for the addition is the only suitable location to place the addition without impacting the livable area of the residence. Additionally, a septic system behind the house prevents adding on to the rear of the dwelling. Because of the existing location of the dwelling on the lot, tucked into the front left corner due to steep slopes and septic area in the rear, the addition cannot be built without the requested relief. *Declaration of understanding will follow pending the outcome of the administrative variance.*

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Julian S. Clarke, 3rd
Signature

Lisa K. Clarke
Signature

Julian S. Clarke, 3rd
Name - Type or Print

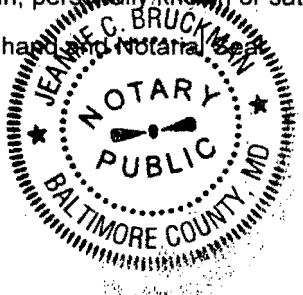
Lisa K. Clarke
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 2nd day of September, 2008, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Julian S. Clarke, 3rd and Lisa K. Clarke
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and notarial seal



Jeanne C. Bruckman
Notary Public

My Commission Expires 05.10.12

Petition for Administrative Variance



to the Zoning Commissioner of Baltimore County for the property located at 8 Ellen's Choice Way which is presently zoned RC-5

Deed Reference: 14144 / 665 Tax Account # 2100013881

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) 1A04.3B.2.b. to allow a front yard setback of 29 feet and a sideyard setback of 20 feet in lieu of the minimum required 50 feet ^{respective ly} and requesting approval to amend the final development plan of Ellen's Choice, Lot #8 only

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County.

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

I, or we, agree to pay expenses of above Administrative 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):

Julian S. Clarke 3rd.
 Name - Type or Print _____
 Signature _____
Lisa K. Clarke
 Name - Type or Print _____
 Signature _____
8 Ellen's Choice Way 410-336-7398
 Address _____ Telephone No. _____
Parkton MD 21120
 City _____ State _____ Zip Code _____

Representative to be Contacted:

Name _____
 Address _____ Telephone No. _____
 City _____ State _____ Zip Code _____

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this _____ day of _____ that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

Case No. 2009-0065-A

Reviewed By [Signature] Date 9/5/08

REV 7/20/07

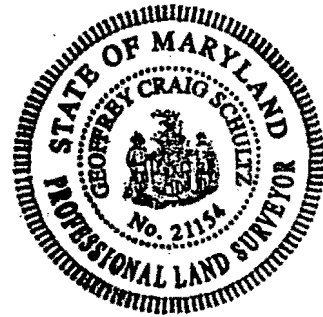
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10-2-08
[Signature]

Posting Date 9/14/08

McKEE & ASSOCIATES, INC.

*Engineering • Surveying • Environmental Planning
Real Estate Development*

Zoning Description
8 Ellen's Choice Way
6th Election District
3rd Councilman District
Baltimore County, MD



Beginning at a point on the west side of Ellen's Choice Way (50 foot wide right-of-way), at the distance of 467 feet southeast of the center line of Rayville Road and being known as Lot 8 of Section II- Ellen's Choice II recorded in Play Book 60 Folio 125.

Containing 2.697 acres of land.

Being known as 8 Ellen's Choice Way as recorded in Deed Liber 14144 Folio 665.

2009-0065-A

CERTIFICATE OF POSTING

Date: 9-13-08

RE: Case Number: 2009-0065-A

Petitioner/Developer: Jay Clarke

Date of Hearing/Closing: 9/29/08

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at B Ellen's choice

The signs(s) were posted on

9/13/08

(Month, Day, Year)

J. Lawrence Pilson
(Signature of Sign Poster)

J. LAWRENCE PILSON

(Printed Name of Sign Poster)

1015 Old Barn Road

(Street Address of Sign Poster)

Parkton, MD 21120

(City, State, Zip Code of Sign Poster)

410-343-1443

(Telephone Number of Sign Poster)

ATTACH PHOTOGRAPH

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. 26514

Date: 9/5/08

PAID RECEIPT

BUSINESS ACTUAL TIME DRG
 9/05/2008 9:00/2008 10:21:40 2
 RECEIPT NO. 441206 9/5/2008 0814
 5 500 AMOUNT IDENTIFICATION
 RECEIPT
 Receipt for \$115.00
 \$115.00 CA
 Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Obj	Sub Obj	Dept Obj	BS Acct	Amount
007	806	0		6150				115.00

Total: 115.00

Rec From: Julian Clarke 3rd
 For: 8 Ellen's Choice Way
Parkton MD 21120
2009-0065-A

DISTRIBUTION
 WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
 PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**

ADMINISTRATIVE
VARIANCE

CASE # 2009-0065-A

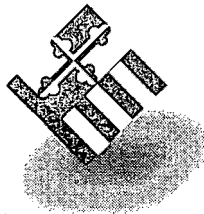
TO PERMIT A FRONT YARD SETBACK
OF 29 FEET AND A SIDYARD SET-
BACK OF 20 FEET IN LIEU OF THE
MINIMUM REQUIRED 50 FEET RE-
SPECTIVELY AND TO AMEND THE FINAL
DEVELOPMENT PLAN OF ELLEN'S CHOICE,
LOT 2 ONLY.

PUBLIC HEARING ?

PURSUANT TO SECTION 26-127(b)(1), BALTIMORE COUNTY CODE,
AN ELIGIBLE INDIVIDUAL OR GROUP MAY

REQUEST A PUBLIC HEARING CONCERNING
THE PROPOSED VARIANCE, PROVIDED THE REQUEST IS
RECEIVED IN THE ZONING REVIEW BUREAU BEFORE
5:00 P.M. ON 9/29/08

ADDITIONAL INFORMATION IS AVAILABLE AT
PERMITS AND DEVELOPMENT



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

September 29, 2008

Julian & Lisa Clarke
8 Ellen's Choice Way
Parkton, MD 21120

Dear: Julian & Lisa Clarke

RE: Case Number 2009-0065-A, 8 Ellen's Choice Way

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on September 9, 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 that reads "W. Carl Richards, Jr." with a stylized flourish at the end.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: September 23, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For September 29, 2008
Item Nos. 2009-0065, 0066, 0067, 0068,
0070, 0072, 0073, 0074, and 0076

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

DAK:CEN:lrk
cc: File
ZAC-09232008 -NO COMMENTS



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

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

Maryland Department of Transportation

Date: SEPT. 23, 2008

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

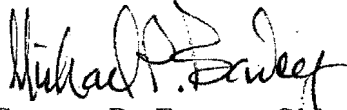
RE: Baltimore County
Item No 2009-0065-A
8 ELLEN'S CHOICE WAY
CLARKE PROPERTY
ADMINISTRATIVE VARIANCE

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. 2009-0065-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,


Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: September 30, 2008

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

SUBJECT: 8 Ellens Choice Way

INFORMATION:

Item Number: 9-065

Petitioner: Julian and Lisa Clarke

Zoning: RC 5

Requested Action: Administrative Variance

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OCT 02 2008

BY:

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request for setback relief for an attached one-story addition. The Office of Planning does not oppose the petitioner's request provided the addition is constructed using exterior building materials similar to that of the existing structure. Relief is also subject to the condition of the declaration to be filed after such relief is given. The kitchen facilities shall be removed from the addition after the petitioner's mother no longer occupies such.

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

Prepared by:
AFK/LL: CM

Curtis Murray

Patricia Zook - Case No. 2009-0065-A (admin. variance that closed 9-29-08) Need Planning Comments

From: Patricia Zook
To: Murray, Curtis
Date: 9/30/2008 4:04 PM
Subject: Case No. 2009-0065-A (admin. variance that closed 9-29-08) Need Planning Comments
CC: Bostwick, Thomas; Lykens, David; Wiseman, Bill

Hello Curtis -

This administrative variance request is for a family member of Dave Lykens. We need Planning comments so that we can issue an order.

CASE NUMBER: 2009-0065-A
8 Ellen's Choice Way
Location: W side of Ellen's Choice Way, 467 feet SE of c/l of Rayville Road.
6th Election District, 3rd Councilmanic District
Legal Owner: Julian S. & Lisa K. Clarke
Closing Date: 9/29/2008

ADMINISTRATIVE VARIANCE To allow a front yard setback of 29 feet and a sideyard setback of 20 feet in lieu of the minimum required 50 respectively and requesting approval to amend the final development plan of Ellen's Choice, Lot 8 only.

Thanks for your help.

Patti Zook
Baltimore County
Office of the Zoning Commissioner
Jefferson Building, Suite 103
105 West Chesapeake Avenue
Towson MD 21204
410-887-3868
pzook@baltimorecountymd.gov

Debra Wiley - Re: Case No. 2009-0065-A

From: Kristen Matthews
To: Wiley, Debra
Date: 09/23/08 3:16 PM
Subject: Re: Case No. 2009-0065-A

Hi Debbie,

Actually that case is an Administrative Variance that closes on 9/29/08.

>>> Debra Wiley 9/23/2008 2:27 PM >>>
Hi Kristen,

Can you tell me if this case has been scheduled and if so, when ? Thanks.

Debbie Wiley
Legal Administrative Secretary
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

BACO Event

Page 1 of 1

Administrative Variances - 8 Ellen Choice Way

Location: 3rd Council District

Date/Time: 08/28/2008 8:00 AM - 09/29/2008 4:30 PM

CASE NUMBER: 2009-0065-A **Location:** West side of Ellen's Choice Way at the distance of 467 feet South East of the centerline of Rayville Road. **6th Election District Legal Owner(s):** Julian S. & Lisa and Clarke *****Closing Date:** September 29, 2008 at 4:30 pm***

Description:

Administrative Variance to allow a front yard setback of 29 feet and a sideyard setback of 20 feet in lieu of the minimum required 50 feet respectively and requesting approval to amend the final development plan of Ellen's Choice, Lot 8 only.

Contact: Zoning Review 410-887-3391

2009-065-A

0027364 626

To: JCM
need Cover Letter
9/17/08

DECLARATION OF UNDERSTANDING

THIS DECLARATION OF UNDERSTANDING (hereinafter referred to as "Declaration") is made on this 16th day of September, 2008, by and between Julian & Lisa Clarke (hereinafter referred to as the Declarant") and the Department of Permits and Development Management (hereinafter referred to as "PDM").

Recitals

A. The Declarant has filed an application for permit with PDM requesting approval to construct an addition to the improvements on the property located at 8 Ellens Choice Way, Parkton, MD 21120 and more particularly described by metes and bounds in Exhibit A, (the Property) and attached hereto and made a part hereof. The property is zoned RC4, which is the particular zone in which the property is located.

B. PDM has approved the Declarants request to build an in-law addition, complete with kitchen, provided the improvement and addition are used as a single family residence. The addition will be housing for Declarants elder, widowed parent with the benefit of being attached to her family. The second kitchen will be removed and the addition's living space will be taken over by the Declarants upon the death of the in-law, if the in-law leaves or moves from the residence or the Declarant moves or sells the property whichever occurs first.

C. As a condition to its approval of the Declarant's request, PDM has required the filing of this Declaration amongst the Land Records of Baltimore County to provide notice to any future owners, subsequent bona fide purchasers or users of this Property that no part of any improvement or addition on the Property may be used for separate living quarters and that all such improvements shall only be used as a single family residence, unless otherwise approved by and at the discretion of PDM.

DECLARATIONS

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarant and PDM hereby declare as follows:

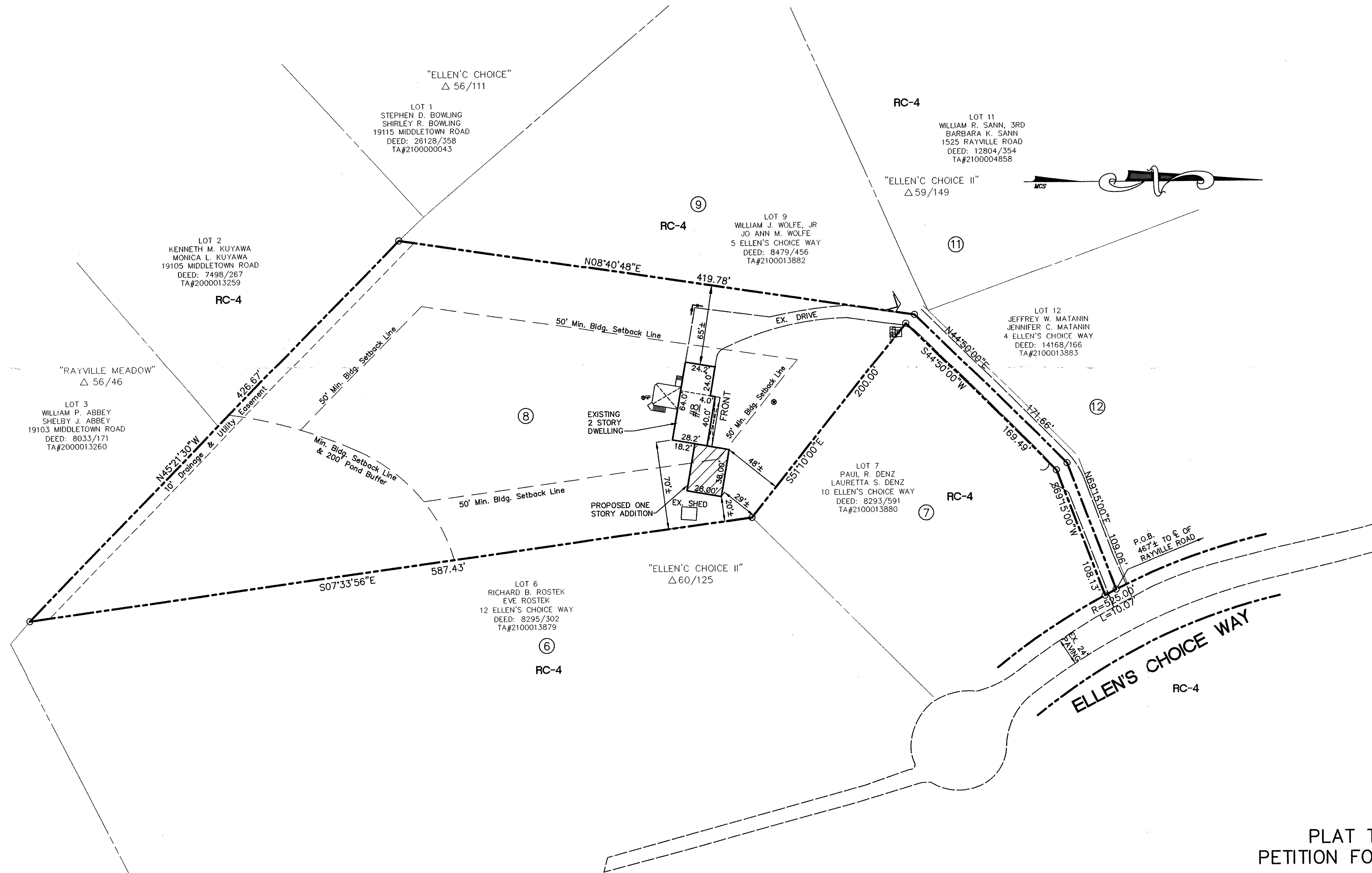
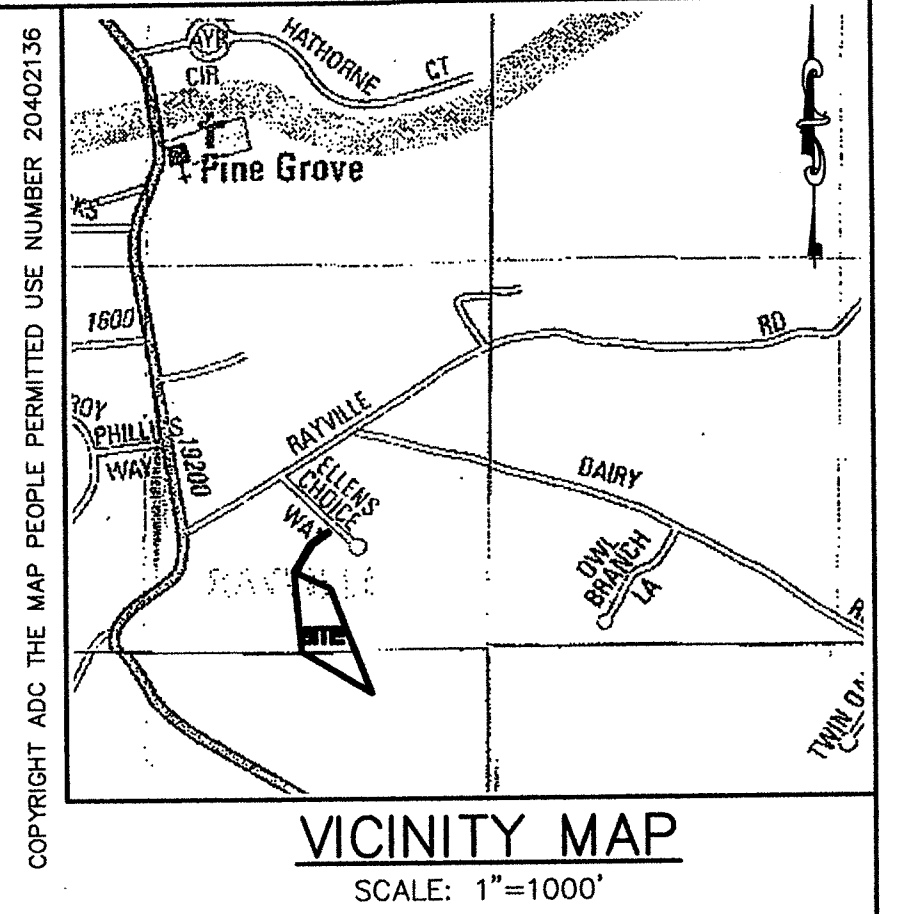
1. Any and all improvements now existing or to be constructed on the Property shall be used only as a single family residence. No such improvements or additions shall ever be used as a separate living quarter or second residential unit.

2. The kitchen for the in-law will be constructed as part of the addition to the Property shall be accessory uses to the principal use of the Property as a single-family residence. Living quarters for the in-law shall be used only by the in-law and not as an independent residential unit, and shall not be used by any other person or for any other reason.

27364 / 626



- NOTES:
- EXISTING ZONING: RC-4
 - ZONING AT TIME OF PLAT RECORDATION: RC-5(1989).
 - GROSS AREA: 117,481 SF = 2.697 AC.±
 - 200 SCALE ZONING MAP NO. 11C3.
 - THERE ARE NO EXISTING OR IMPENDING FAILURES OF THE BASIC SERVICES MAPS FOR THIS SITE.
 - TO THE BEST OF OUR KNOWLEDGE THERE HAVE BEEN NO PRIOR ZONING HEARINGS FOR THIS SITE.
 - THIS LOT IS SERVED BY PRIVATE WELL AND SEPTIC SYSTEM.
 - NO BOUNDARY SURVEY HAS BEEN PERFORMED. PROPERTY OUTLINE IS BASED ON PLAT ONLY.
 - OWNER INFORMATION:
 JULIAN S. CLARKE, 3RD
 LISA K. CLARKE
 DEED REFERENCE: 14144/665
 TAX ACCT.# 2100013881
 TAX MAP 11, GRID 23, PARCEL 46
 - THIS PROPERTY IS NOT IN THE CBCA.
 - THIS SITE DOES NOT LIE IN THE 100 YEAR FLOOD PLAIN.
 - THIS SITE IS NOT HISTORIC.



2009-0065-A
 PLAT TO ACCOMPANY
 PETITION FOR ZONING VARIANCE
#8 ELLEN'S CHOICE WAY

3RD COUNCILMANIC DISTRICT
 6TH ELECTION DISTRICT
 BALTIMORE COUNTY, MARYLAND
 SCALE: 1" = 50' DATE: AUGUST 27, 2008

LOT 8
 "ELLEN'S CHOICE"
 Δ 60/125



GC 7/3/08
McKee & Associates, Inc.
 Engineering - Land Planning - Land Surveying

Natural Resource Planning - Real Estate Development
 5 SHAWAN ROAD, Suite 1 COCKEYSVILLE, MARYLAND 21030
 TELEPHONE: (410) 527-1555 FACSIMILE: (410) 527-1563