

IN RE: PETITION FOR ADMIN. VARIANCE

E side of Dawnvale Road, 36 feet north
of Walter Avenue
11th Election District
5th Councilmanic District
(9501 Dawnvale Road)

Louis J. and Deborah A. Sellmayer
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2009-0069-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, Louis J. and Deborah A. Sellmayer for property located at 9501 Dawnvale Road. The variance request is from Section 427.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a fence height of 72 inches in lieu of the required 42 inches. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. The Petitioners live on a corner lot in which the rear of their property meets the side property line of their neighbors, Norris and Jody Gorman, at 4106 Walter Avenue. The Petitioners wish to erect a fence over 42 inches to contain and ensure the safety of their large dog who could easily jump over a fence under 42 inches. The Petitioners discussed the location of the fence with their neighbors located at 4106 Walter Avenue who did not object to the proposal and, in fact, presented a letter in support, dated October 5, 2008.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on September 21, 2008 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

ORDER RECEIVED FOR FILING
Date 10-14-08
By [Signature]

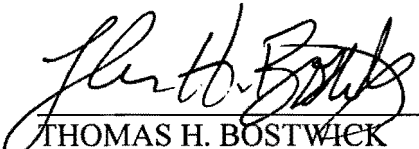
The Petitioner has filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and 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.

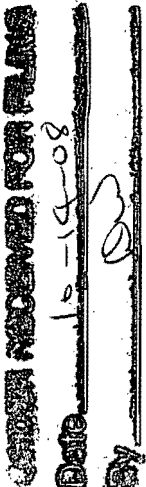
THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 14th day of October, 2008 that a variance from Section 427.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a fence height of 72 inches in lieu of the required 42 inches is hereby GRANTED, subject to the following:

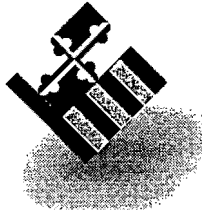
1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

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





BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

October 14, 2008

LOUIS J. AND DEBORAH A. SELLMAYER
9501 DAWNVALE ROAD
NOTTINGHAM, MD 21236

Re: Petition for Administrative Variance
Case No. 2009-0069-A
Property: 9501 Dawnvale Road

Dear Mr. and Mrs. Sellmayer:

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 horizontal line.

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

Enclosure



Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 9501 DAWNVALE ROAD 21236
which is presently zoned DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 427.8.2 TO ALLOW A FENCE
HEIGHT OF 72 INCHES IN LIEU OF THE REQUIRED 42 INCHES

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

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):

LOUIS J. SELLMAYER

Name - Type or Print

Signature

Deborah A. Sellmayer

Name - Type or Print

Deborah A. Sellmayer

Signature

9501 DAWNVALE ROAD

Address

(410) 256-5449

Telephone No.

NOTTINGHAM, MD

City

State

21236

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 10-14-08 day of October 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.

2009-0069-A

Reviewed By

CM

Date

9-8-08

REV 10/25/01

DATE RECEIVED FOR FILING

10-14-08

Estimated Posting Date

9-21-08

By DW

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 9501 DAWNVALE ROAD
Address
NOTTINGHAM MD 21236
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):

A. Most of the lots in the area are parallel (side by side), so fences surrounding the rear yard have no impact on the neighbors' front yards. This corner lot is unique, in that the rear faces our neighbor's side yard. Although it is rare, we found several such instances within a mile, where the fence was constructed as proposed, with no ill effect.

B. 2. (i) The primary purpose for the fence is to contain a dog we rescued. Strict compliance (42 inches height) would render the fence ineffective at containment, and pose a potential risk to the dog's safety, as well as pedestrians and motorists.

(ii) Granting a variance to the 42 inch height restriction poses no injustice. We are applying for relief to 72 inches in height because a lesser height would render the fence ineffective at containing a large dog.

(iii) Because 21 linear feet of the 75 linear feet of rear fencing is affected, we feel that granting relief would be in the spirit of the ordinance, to secure and protect public safety and welfare.

C. Granting this variance will not affect residential density in any way.

D. The relief requested will be in harmony with the spirit and intent of the height, area, parking, and sign regulations, as the new 72 inch fence will be installed more than 4 feet further from the sidewalk and street (Walter Avenue), than the current 84+ inch high hedge that will be removed.

E. Not only will the relief not cause injury to public health, safety, and welfare, but it will remove the source of potential poison ivy exposure to anyone who came in contact with the hedge.

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.

Louis J. Sellmayer
Signature

Louis J. SELLMAYER
Name - Type or Print

Deborah A. Sellmayer
Signature

Deborah A. Sellmayer
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 3rd day of September, 2008, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Louis J. Sellmayer and Deborah A. Sellmayer
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Mary Lou Seidenzahl
Notary Public

My Commission Expires 12-01-09

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

9501 DAWNVALE ROAD
Address
NOTTINGHAM MD 21236
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):

A. Most of the lots in the area are parallel (side by side), so fences surrounding the rear yard have no impact on the neighbors' front yards. This corner lot is unique, in that the rear faces our neighbor's side yard. Although it is rare, we found several such instances within a mile, where the fence was constructed as proposed, with no ill effect.

B. 2. (i) The primary purpose for the fence is to contain a dog we rescued. Strict compliance (42 inches height) would render the fence ineffective at containment, and pose a potential risk to the dog's safety, as well as pedestrians and motorists.

(ii) Granting a variance to the 42 inch height restriction poses no injustice. We are applying for relief to 72 inches in height because a lesser height would render the fence ineffective at containing a large dog.

(iii) Because 21 linear feet of the 75 linear feet of rear fencing is affected, we feel that granting relief would be in the spirit of the ordinance, to secure and protect public safety and welfare.

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D. The relief requested will be in harmony with the spirit and intent of the height, area, parking, and sign regulations, as the new 72 inch fence will be installed more than 4 feet further from the sidewalk and street (Walter Avenue), than the current 84+ inch high hedge that will be removed.

E. Not only will the relief not cause injury to public health, safety, and welfare, but it will remove the source of potential poison ivy exposure to anyone who came in contact with the hedge.

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.

Louis J. Sellmayer
Signature
Louis J. SELLMAYER
Name - Type or Print

Deborah A. Sellmayer
Signature
Deborah A. Sellmayer
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 3rd day of September, 2008, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Louis J. Sellmayer and Deborah A. Sellmayer
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Mary Lou Seidenzahl
Notary Public

My Commission Expires 12-01-09

ZONING DESCRIPTION FOR:

9501 DAWNVALE ROAD, NOTTINGHAM, MD 21236

Beginning at a point on the East side of Dawnvale Road, which is 30 feet wide at the distance of 35 feet North of the centerline of the nearest improved intersecting street Walter Avenue which is 40 feet wide.

Being Lot # 19 in the subdivision of Dawnvale "B" as recorded in Baltimore County Plat Book # 34, Folio # 52, containing 0.28ac or 11,656 sq ft.

Also known as 9501 Dawnvale Road, Nottingham, MD 21236 and located in the 11th Election District, 5th Councilmanic District.

No. 26518

Date:

9-8-08

SECRET

BUSINESS	ACTUAL	TIME	GRN
1/15/2003	9/02/2003	14:15:17	1

REC 0861 WALKER TRIC JNR
RECEIPT N 371971 9/08/2004 OFLN

5.523 JOURNAL VERIFICATION

4. 026336

Receipt Total \$45.00

\$65.00 CR \$65.00 CR

Baltimore County, Maryland.

[illegible]

Total:

105.147

Rec
From:

L. Selbmayr

For:

7501 LAWNVALE RD

95212

Ad Variance

2004-0069-A

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
VALIDATION**

CERTIFICATE OF POSTING

RE: Case No.: 2009-0069-A

Petitioner/Developer: _____

L. Sellmayer

Date of Hearing/Closing: Oct.6 08

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTN: 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: _____

9501 Dawnvale Rd.

The sign(s) were posted on Sept 21 2008
(Month, Day, Year)

Sincerely,

Robert Black Sept 24 08
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

ZONING NOTICE

ADMINISTRATIVE VARIANCE

CASE # 2009-0069-A

TO PERMIT A FENCE HEIGHT OF 72 INCHES IN
LIEU OF THE REQUIRED 42 INCHES

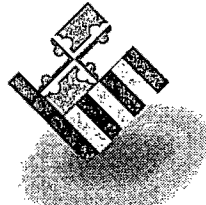
PUBLIC HEARING ?

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 IT
IS DONE IN THE ZONING OFFICE BEFORE
4:30 p.m. ON 10-6-08

ADDITIONAL INFORMATION IS AVAILABLE AT
ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
451 W. CHESAPEAKE AVE.
TOWSON, MD. 21204 TEL. 887-3391

*A \$400 FINE MAY BE IMPOSED FOR NOT POSTING THIS NOTICE AFTER 4:30 P.M. ON 10-6-08. RETURN BOTH TO ZONING, RM. 104

MEETING IS HANDICAP ACCESSIBLE



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

October 6, 2008

Louis J. & Deborah A. Sellmayer
9501 Dawnvale Rd.
Nottingham, MD 21236

Dear: Louis J. & Deborah A. Sellmayer

RE: Case Number 2009-0069-A, 9501 Dawnvale Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on September 08, 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." in a cursive style.

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: October 2, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For October 6, 2008
Item Nos. ~~2009-0069-A~~, 0082-A
and 0083-A

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

DAK:CEN:lrk
cc: File
ZAC: 10022008-NO COMMENTS



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

September 30, 2008

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

ATTENTION: Zoning Review planners

Distribution Meeting of: September 29, 2008

Item No.: **2009-0069-A**, 2009-0078-A, 2009-0079-SPHA, 2009-0080-XA,
2009-0081-A, 2009-0082-A, and 2009-0083-A.

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

NORRIS & JODY GORMAN

4106 Walter Avenue
Nottingham, MD 21236

October 5, 2008

Zoning Review
Dept. of Permits & Development Management
111 W. Chesapeake Avenue, Room 111
Towson, MD 21204

Re: Case #2009-0069-A

Dear Zoning Commissioner,

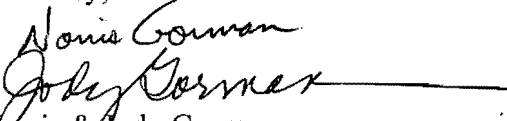
We reside at 4106 Walter Avenue. The side of our property meets the rear property line of our neighbors, Louis & Deborah Sellmayer of 9501 Dawnvale Road.

It is our understanding that the Sellmayer's have applied for a zoning variance to exceed the forty two inch height restriction for fencing in Baltimore County. We have discussed the type of fence and placement of the fence on their property facing our house. We have discussed landscaping options to soften the look of the fencing, and maintain the overall appearance of the neighborhood.

We agree it is necessary for them to erect a fence over forty two inches to contain and ensure the safety of their dog. He is a large dog and could easily jump over a fence under forty two inches.

In summary we support this variance request.

Sincerely,


Norris & Jody Gorman

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: October 14, 2008

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

RECEIVED
OCT 14 2008

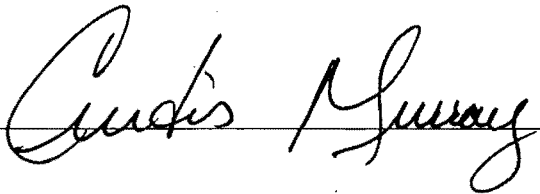
BY:

SUBJECT: Zoning Advisory Petition(s): **Case(s) 09-069- Administrative Variance**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

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

Prepared By:
CM/LL



Patricia Zook - Administrative Variances that closed October 6 - comments needed

From: Patricia Zook
To: Murray, Curtis
Date: 10/7/2008 10:52 AM
Subject: Administrative Variances that closed October 6 - comments needed
CC: Bostwick, Thomas; Wiley, Debra

Curtis -

Below are the descriptions for the administrative variance cases that were just delivered to our office. None of these folders have comments from the Planning Office.

CASE NUMBER: 2009-0069-A

9501 Dawnvale Road
Location: E side of Dawnvale Road, 36 feet N of Walter Avenue.
11th Election District, 5th Councilmanic District
Legal Owner: Louis J. and Deborah A. Sellmayer
Closing Date: 10/6/2008

ADMINISTRATIVE VARIANCE to allow a fence height of 72 inches in lieu of the allowed 42 inches.

CASE NUMBER: 2009-0068-A

1041 Mace Avenue
Location: N side of Mace Avenue, 100 feet +/- N of centerline of Essex Avenue.
15th Election District, 7th Councilmanic District
Legal Owner: Jonathan M. and Judy A. Goff
Closing Date: 10/6/2008

ADMINISTRATIVE VARIANCE to permit a side setback of 1.5 feet for an attached garage in lieu of the required 10 feet.

CASE NUMBER: 2009-0074-A

3 Moales Lane
Location: SW corner of Moales Lane and Greenspring Valley Road.
3rd Election District, 2nd Councilmanic District
Legal Owner: Charles and Pamela Ward
Closing Date: 10/6/2008

ADMINISTRATIVE VARIANCE to permit a rear setback of 18.5 feet in lieu of the required 35 feet for an addition.

Please respond to Debbie as I am heading for the Islands later today.

Thanks for checking into this for us.

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

PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

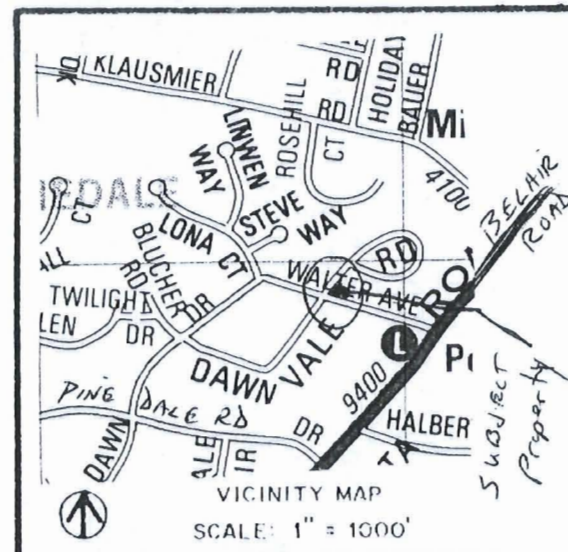
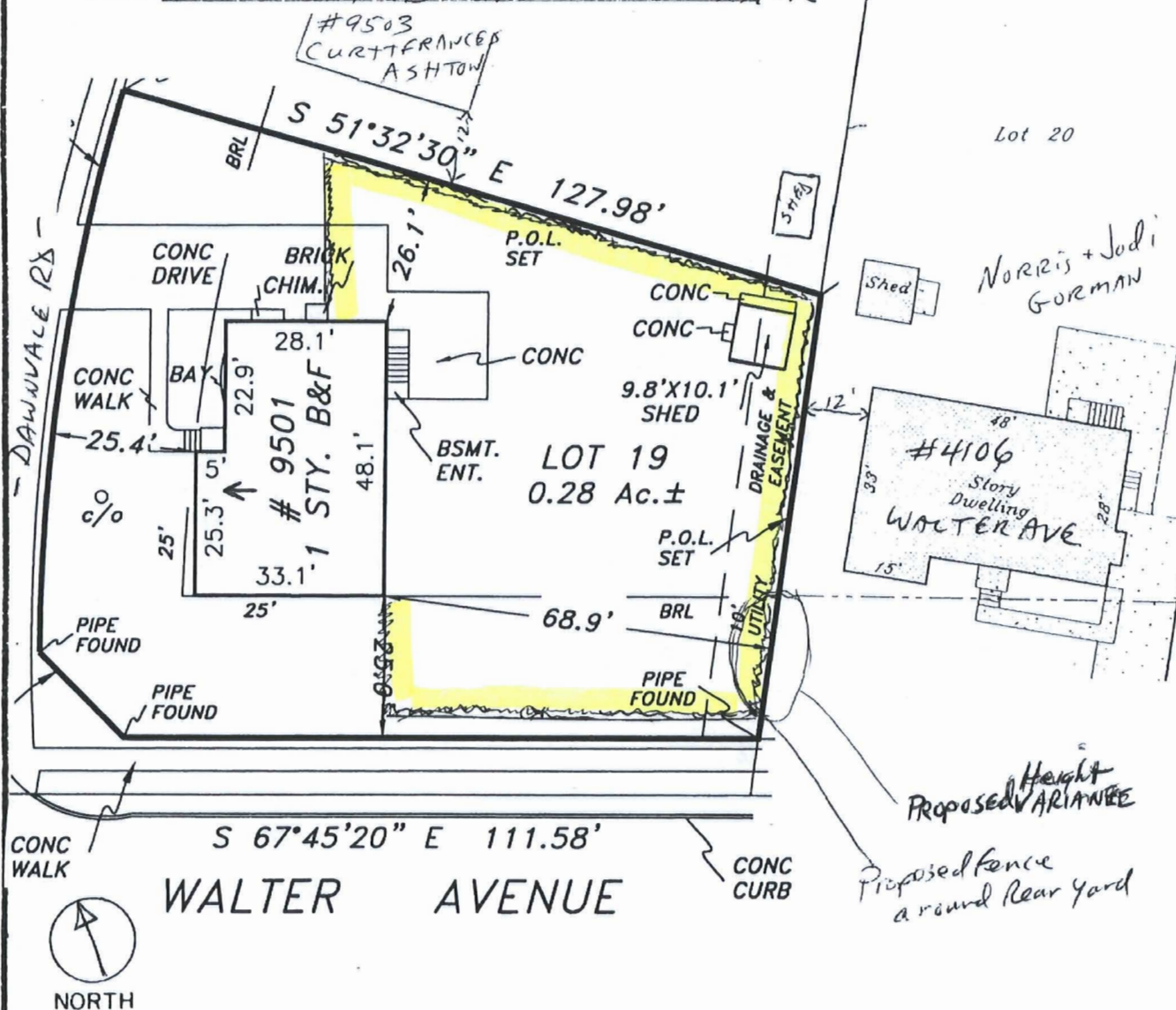
PROPERTY ADDRESS 9501 DAWNVALE ROAD

SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME DAWNVALE B

PLAT BOOK # 34 FOLIO # 52 LOT # 19 SECTION #

OWNER LOUIS & DEBORAH SELLMAYER



LOCATION INFORMATION

ELECTION DISTRICT 11

COUNCILMANIC DISTRICT 5

1" = 200' SCALE MAP # BC29 CS

ZONING DR 5.5

LOT SIZE 0.2676 11656.00
ACREAGE SQUARE FEET

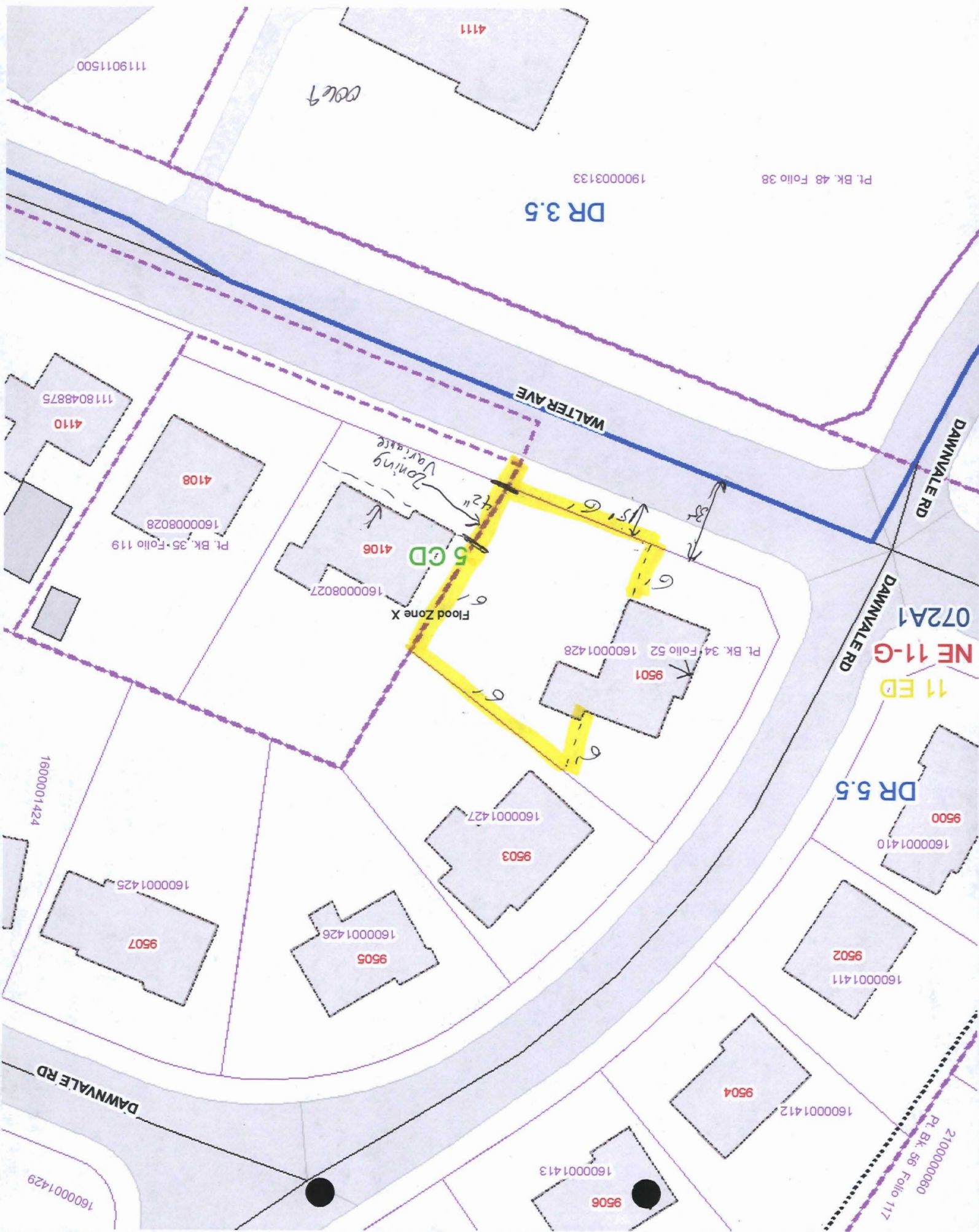
	PUBLIC	PRIVATE
SEWER	☒	☐
WATER	☒	☐

	YES	NO
CHESAPEAKE BAY CRITICAL AREA	☐	☒
100 YEAR FLOOD PLAIN	☐	☒
HISTORIC PROPERTY/ BUILDING	☐	☒
PRIOR ZONING HEARING	<u>NONE</u>	

ZONING OFFICE USE ONLY
REVIEWED BY Can ITEM # 0009 CASE # 2009-0009-A

PREPARED BY LJS

SCALE OF DRAWING: 1" = 30'



fences shown:

9300 Inasbrook Way
at
3814 Pinedale Road

9301 Seven Courts
at
3802 Pinedale Rd

Yard & Hedge

9501 Dawnvale Rd
(Subject Property)

2009-0069-A



Front of 3814 Pinedale at Innsbruck (9300)

2009-0069-A



9300 Innsbrook Way at Pinedale
Side View (Pinedale)

2009-0069-A



9300 Inasbrook Way at Pinedale
Front View of Fence (Inasbrook)

2009-0069-R



9301 Seven Courts at Pinedale
Front View

2009-0069-A



SPEED
LIMIT
25
CHECKED
BY RADAR

9301 Seven Courts at Pinedale
Side View

2009-0069-A



3802 Pinedale at Seven Courts (9301)

2009-0069-A



3802 Pine Dale at Seven Courts (9301)

2009-0062-1⁹



4106 WATER Ave. at Rear of 9501 Dawnvale.
(subject)

2009-0069-A



4106 Walter Ave showing Rear of 9501 Down Hill
(Subject)

2009-0069A



9501 Dawnvale Road (subject on right)

9503 Dawnvale on left

2009-0069A



9501 DAWNVALE Rd at Walter Ave.
Side View

2009-0069-A