

IN RE: PETITION FOR VARIANCE

W side of Bay Drive, 113 feet N of the
c/l intersection of Bay Drive
15th Election District
6th Councilmanic District
(3518 Bay Drive)

Michael Hawk
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* CASE NO. 2009-0210-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owner of the subject property, Michael Hawk. Petitioner is requesting variance relief as follows:

- To allow 10 foot side yard setbacks in lieu of the required 50 foot side yard setbacks in an R.C.5 Zone pursuant to Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) and;
- To allow 17% building coverage in lieu of the required 15% building coverage in an R.C.5 Zone pursuant to Section 1A04.3.B.3 of the B.C.Z.R. and;
- To allow an undersized lot of 0.307 acre in lieu of the required 1.5 acres of land in an R.C.5 Zone pursuant to Section 1A04.3.B.1.a of the B.C.Z.R. and;
- To allow a 38 foot building height in lieu of the required 35 foot building height in an R.C.5 Zone pursuant to Section 1A04.3.A of the B.C.Z.R.

The subject property and requested relief are more fully depicted on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the variance requests was Petitioner Michael Hawk, as well as William N. Bafitis with Bafitis & Associates, Inc., the professional engineer who prepared the site plan. There were no Protestants or other interested citizens in attendance at the hearing.

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Testimony and evidence offered revealed that the subject property is rectangular in shape and consists of approximately 13,255 square feet or 0.304 acre, more or less, zoned R.C.5. The property is approximately 50 feet wide by 260 feet deep, with an uneven distance along the shoreline. This waterfront property is located at the terminus of Bay Drive, immediately adjacent to the Bowleys Quarters Condo-Marina located just to the north, and fronting on Middle River to the west, in the Bowleys Quarters area of Baltimore County. The property is presently improved with an existing two-story brick and siding dwelling and deck, as well as a two-story brick and siding garage.

Petitioner acquired the property in 2004 and has resided there since that time. According to SDAT property tax records, the dwelling was built in 1929 and is known as Lot 2 as part of "Plat No. 3 of Bowleys Quarters" that was recorded on April 25, 1930, as shown on the recorded plat that was marked and accepted into evidence as Petitioner's Exhibit 5. At this juncture, Petitioner desires to raze the existing home and replace it with a new dwelling. He also wishes to retain the existing garage. In order to do so, Petitioner is in need of the instant zoning relief from the height, area, building coverage, and setback restrictions that exist in the R.C.5 Zone.

In support of the variance requests, Petitioner submitted photographs of the property and the existing dwelling, which were marked and accepted into evidence as Petitioner's Exhibits 3A through 3K. Petitioner explained that, although the photographs seem to indicate the dwelling is in good shape, the pictures can be -- and indeed are -- deceiving in this case. Since Petitioner purchased the property, he has dealt with a number of structural issues concerning the home. The home was originally built in 1929 as the typical "shore shack" and has increased in size over the years with additions. The home appears on the outside to be an attractive home, but on the inside, there are problems. Petitioner indicated that much of the foundation is unstable and parts of the

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structural floor areas are rotted. In addition, Petitioner has noticed that the height of some walls is uneven inside the home, going beyond mere settling.

As a result of these problems, Petitioner hired a structural engineer to look at the home and a soils engineer to observe the property's sub-surface characteristics. As a result of these analyses, the engineers came up with a plan to reinforce the home's foundation and to strengthen the walls to adequately hold up the second floor. Several contractors reviewed the engineers' plan and the average price to perform the work was in excess of \$150,000. However, Petitioner indicated he realized that these fixes might not be the end of his problems with the home and that other issues would likely crop up in the future, with more "good" money being spent after "bad." Hence, Petitioner desires to "start over" and construct a new home with today's materials and workmanship. Unfortunately for Petitioner, this endeavor also involves compliance with today's R.C.5 zoning requirements.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comment received from the Office of Planning dated March 4, 2009 indicates it does not oppose Petitioner's request, provided the construction complies with the current R.C.5 performance standards. In order to make this determination, the Office of Planning will require the submission of additional information, which will be expounded on further in this Order. Comments were received from the Department of Environmental Protection and Resource Management (DEPRM) dated April 3, 2009 which indicates that the property must comply with the Chesapeake Bay Critical Area (CBCA) Regulations, and that the property is within the CBCA and is designated a Limited Development Area (LDA) and Buffer Management Area (BMA). Lot coverage is limited to 31.25% with mitigation and the 15% afforestation requirement must be met. In addition, any development within the 100 foot buffer must meet all BMA provisions. Comments were also received from the Bureau of Development Plans Review dated February 18, 2009. The

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comments indicate that the first floor or basement must be at least one foot above the flood plain elevation in all construction, the building should be designed and adequately anchored to prevent flotation or collapse and constructed of materials resistant to flood damage. Flood-resistant construction should be in accordance with the Baltimore County Building Code which adopts the International Building Code.

This case presents an increasingly common set of circumstances before this Commission; namely, waterfront properties in eastern Baltimore County that are zoned R.C.5, but were platted and recorded decades ago -- certainly prior to the adoption of Zoning Regulations in these areas -- and thus do not meet the current zoning requirements for setbacks, minimum area, and building coverage. In addition, because these areas are within the floodplain, the base flood and flood protection elevations also make it increasingly difficult for property owners to replace aged, often dilapidated original structures that were relatively small and intended as summer cottages with new homes of sufficient size that are often used as a primary residences, yet still not exceed the maximum allowable height of 35 feet.

Thus, the task for this Commission is to review the purpose of the R.C.5 Zone and interpret that in the context of these waterfront properties. Section 1A04.1.B states that the R.C.5 zoning classification is established in order to: (1) provide for rural-residential development in suitable areas in which basic services are not anticipated, (2) eliminate scattered and generally disorderly patterns of future rural-residential development, (3) assure that encroachments onto productive or critical natural resource areas will be minimized, and (4) provide a minimum lot size which is sufficient to provide adequate area for the proper functioning of on-lot sewer and water systems.

Turning now to the instant matter, I am persuaded to grant the requested relief. Although the subject property does not meet the minimum lot area requirement of 1½ acres, nor the height and side yard setback limitations, in my view, this lot -- and others like it -- is clearly consistent with the

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purpose of the R.C.5 zoning classification, and therefore meets the spirit and intent of the Zoning Regulations. As to the concern over the provision of basic services and adequate area for on-site sewer and water systems, in this case the property does have access to existing public water and sewer services. As to the issue of scattered and generally disorderly patterns of future rural-residential development, that is also not impacted here. This property is a lot of record and has been in existence for almost 80 years. As depicted in the record plat accepted into evidence as Petitioners' Exhibit 5, it was platted and recorded as part of a planned layout of waterfront properties in Bowleys Quarters. Regarding the encroachments onto productive or critical natural resource areas, this property is situated in the Chesapeake Bay Critical Area and is subject to stringent regulations at the State and local level, including lot coverage requirements, afforestation, and mitigation in environmentally sensitive areas. DEPRM's careful watch over these issues will minimize the potential impact of this development in those areas. In addition, it is noteworthy that the existing home currently has a building coverage of 18%; however, with the proposed new dwelling, lot coverage will actually be reduced to 17%.

I also find the property unique in a zoning sense in that the setback and height constraints cause the subject property to be disproportionately impacted by the Zoning Regulations as compared with other surrounding properties, making it virtually impossible for Petitioner to have any dwelling erected on the property. The property is only 50 feet wide and the setback for each side is 50 feet. Moreover, the base flood and flood protection elevation requirements almost automatically dictate that a proposed dwelling will begin with a 10 or 11 foot height above ground level, leaving perhaps only 25 feet for the enclosed living areas of the dwelling height, including an adequate roof pitch.

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~~_____~~

Finally, I find that the variance requests can be granted in strict harmony with the spirit and intent of said regulations, and in such a manner as to grant relief without injury to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this amended petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's variance requests should be granted.

THEREFORE, IT IS ORDERED this 7th day of May, 2009 by this Deputy Zoning Commissioner, that Petitioner's Variance requests as follows:

- To allow 10 foot side yard setbacks in lieu of the required 50 foot side yard setbacks in an R.C.5 Zone pursuant to Section 1A04.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) and;
- To allow 17% building coverage in lieu of the required 15% building coverage in an R.C.5 Zone pursuant to Section 1A04.3.B.3 of the B.C.Z.R. and;
- To allow an undersized lot of 0.307 acre in lieu of the required 1.5 acres of land in an R.C.5 Zone pursuant to Section 1A04.3.B.1.a of the B.C.Z.R. and;
- To allow a 38 foot building height in lieu of the required 35 foot building height in an R.C.5 Zone pursuant to Section 1A04.3.A of the B.C.Z.R.

be and are hereby GRANTED. The relief granted herein shall be subject to the following:

1. Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Prior to obtaining a building permit, Petitioner shall submit the following information to the Office of Planning for their determination that the proposed structure meets the R.C.5 Performance Standards:
 - a. Submit photographs of existing adjacent dwellings to the Office of Planning.
 - b. Submit building elevations (all sides) of the proposed dwelling to the Office of Planning for review and approval. The proposed dwelling shall be compatible in size and architectural detail as that of the existing dwellings in the area. Ensure that the exterior of the proposed building(s) use the same finish materials and

~~COPIES RESERVED FOR PLANNING~~

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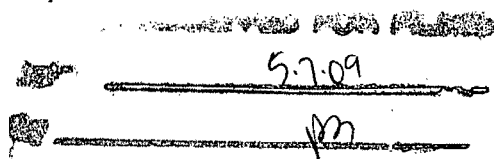
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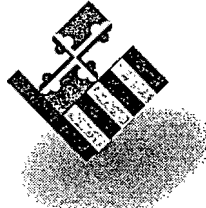
- architectural details on the front, side and rear elevations. Use of quality material such as brick, stone or cedar is encouraged.
- c. Design all decks, balconies, windows, dormers, chimneys and porches as a component of the building following dominant building lines. Decks shall be screened to minimize visibility from a public street.
 - d. Design all accessory structures at a scale appropriate to the dwelling and design garages with the same architectural theme as the principal building, on the site, providing consistency in materials, colors, roof pitch and style.
 - e. Provide landscaping along the public road, if it is consistent with the existing streetscape.
3. 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).
 4. The property is within the CBCA and is designated a Limited Development Area (LDA) and Buffer Management Area (BMA). Lot coverage is limited to 31.25% with mitigation and the 15% afforestation requirement must be met. In addition, any development within the 100 foot buffer must meet all BMA provisions.
 5. The base flood elevation for this site is 10.2 feet Baltimore County Datum. The flood protection elevation for this site is 11.2 feet. In conformance with Federal Flood Insurance Requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.
 6. The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the Baltimore County Building Code must be followed whereby elevation limitations are placed on the lowest floor (including basements) of residential (commercial) development.
 7. The building engineer shall require a permit for this project. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
 8. Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the International Building Code.

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

May 7, 2009

MICHAEL HAWK
3518 BAY DRIVE
BALTIMORE MD 21220

Re: Petition for Variance
Case No. 2009-0210-A
Property: 3518 Bay Drive

Dear Mr. Hawk:

Enclosed please find the decision rendered in the above-captioned case.

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 cursive script, appearing to read "Thomas H. Bostwick".

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

Enclosure

c: William N. Bafitis, Bafitis & Associates, Inc., 1249 Engleberth Road, Baltimore MD 21221



Petition for Variance

to the Zoning Commissioner of Baltimore County for the property
located at 3518 BAY DRIVE, BALTIMORE, MARYLAND 21220
which is presently zoned RC-5

Deed Reference: 21023 / 315 Tax Account # 1519000190

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)

To allow 10' sideyard setbacks in lieu of the required 50' sideyard setbacks in a RC-5 zone per section 1A04. B2b (B.C.Z.R.). To allow 17% building coverage in lieu of the required 15% building coverage in a RC-5 zone per section 1A04.3 B3 (B.C.Z.R.). To allow undersized lot of 0.307 acres in lieu of the required 1.5 acres of land in a RC-5 zone per section 1A04.3 B1a (B.C.Z.R.). To allow a 38' building height in lieu of the required 35' building height in a RC-5 zone per section 1A04.3A (B.C.Z.R.)

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

Owner needs variances to construct a new 2 story dwelling.

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:

N/A
Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

N/A
Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

Legal Owner(s):

MICHAEL HAWK
Name - Type or Print

Signature

Name - Type or Print

Signature

3518 BAY DRIVE 410-409-5148

Address Telephone No.

BALTIMORE MARYLAND 21220

City State Zip Code

Representative to be Contacted:

WILLIAM N. BAFITIS, P.E. / BAFITIS & ASSOCIATES, INC
Name

1249 ENGLEBERTH ROAD 410-391-2336

Address Telephone No.

BALTIMORE MARYLAND 21221

City State Zip Code

Case No. 2009-0210-A

Office Use Only

Estimated Length of Hearing _____
Unavailable For Hearing _____

Reviewed by A-TSUI Date 02/10/2009

REV 8/20/07

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**ZONING DESCRIPTION
FOR
3518 BAY DRIVE
15TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND**

Beginning for same at a point on the Westside of Bay Drive 25' wide and 113'±
Northeasterly from the centerline intersection of Bay Drive 25' wide;

1. Thence leaving said point of beginning North 88°-04'-58" West 258.60' to a point
in the waters of Middle River;
2. Thence running with the waters of Middle River Northwesterly at 54'± to a point;
3. Thence leaving said waters South 88°-04'-58" East 278.00' to a point on the
Westside of Bay Drive;
4. Thence running along said road South 01°-55'-02" West 50.00' to the place of
beginning.

Containing 13,388 s.f. or 0.307 ac.± more or less.

Being known as lot 2 shown on a plat entitled, "Plat 3 of Bowley's Quarters" Book 09
Folio 56, recorded among the Land Records of Baltimore County, Maryland.



William N. Bafitis, P.E. Md. Reg. License #11641

12/16/08
Date

2009-0210-A

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

No. 85062

Date: 02/14/09

Fund	Dept	Unit	Sub Unit	Rev	Sub	Obj	Sub Obj	Dept	Obj	BS Acct	Amount
				Source/	Rev/						
001	906	0000		6150							6.00

Total: 6.00

Rec From: WILLIAM H. DUFFIN, PE

For: 3512 BAY LK. (R.C.S.)

2009-0210-A

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

CASHIER'S
VALIDATION

NOTICE OF ZONING HEARING

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

Case: #2009-0210-A

.3518 Bay Drive

W/side of Bay Drive; 113 feet north of centerline of intersection of Bay Drive

15th Election District - 6th Councilmanic District

Legal Owner(s): Michael Hawk

Variance: to allow 10 feet sideyard setback in lieu of the required 50 feet sideyard setback in an RC-5 zone. To allow 17% building coverage in lieu of the required 15% building coverage in an RC-5 zone. To allow a 38 foot building height in lieu of the required 35 feet building height in an RC-5 zone.

Hearing: Tuesday, April 14, 2009 at 11:00 a.m. in Room 104, Jefferson Building, 105 West 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/3/801 Mar. 31

197767

CERTIFICATE OF PUBLICATION

4/21, 2009

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 3/31, 2009.

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

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: 2009-0210-A

Petitioner/Developer: _____

Michael Hawk

Date of Hearing/closing: April 14, 2009

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

Attn : Kristin 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, _____

3518 Bay Drive

The sign(s) were posted on March 30, 2009
(Month, Day, Year)

Sincerely,



(Signature of Sign Poster) Mar 31, 2009
(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

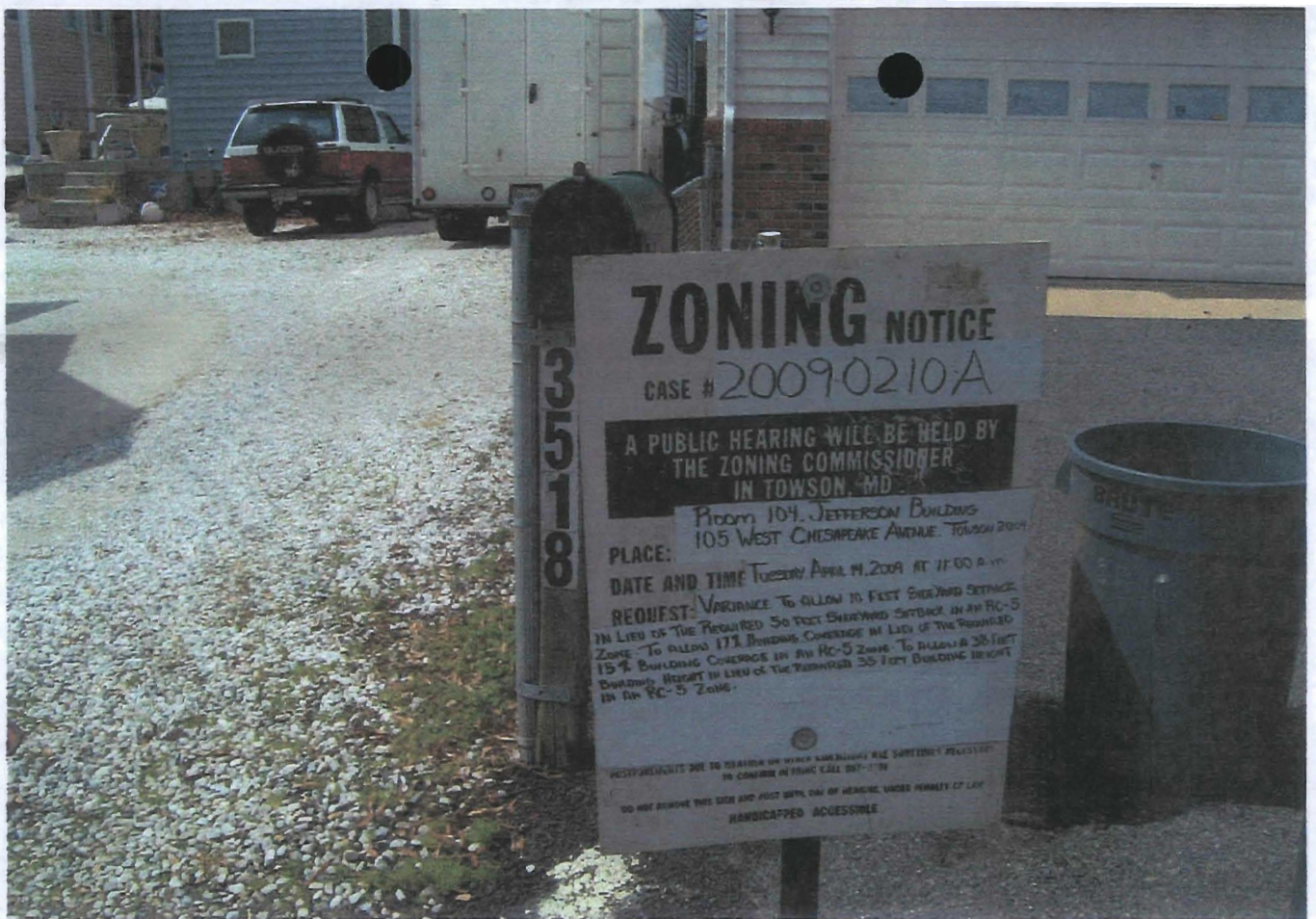
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



ZONING NOTICE

CASE # 2009-0210A

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

Room 104, JEFFERSON BUILDING
105 WEST CHESAPEAKE AVENUE, TOWSON 21204

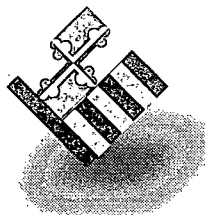
PLACE:

DATE AND TIME TUESDAY APRIL 14, 2009 AT 11:00 A.M.

REQUEST: VARIANCE TO ALLOW 10 FEET SIDEYARD SETBACK
IN LIEU OF THE REQUIRED 30 FEET SIDEYARD SETBACK IN AN RC-5
ZONE. TO ALLOW 17.5 FOOT BUILDING COVERAGE IN LIEU OF THE REQUIRED
15% BUILDING COVERAGE IN AN RC-5 ZONE. TO ALLOW A 30-FOOT
BUILDING HEIGHT IN LIEU OF THE REQUIRED 35-FOOT BUILDING HEIGHT
IN AN RC-5 ZONE.

POST-HEARING DUE TO REASON OR WHEN A VARIANCE IS GRANTED, THE ZONING COMMISSIONER
WILL CONSIDER THE CASE FOR A VARIANCE TO CONFORM TO THE ZONING CODE.

DO NOT REMOVE THIS SIGN AND POST WITHIN ONE DAY OF HEARING UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

March 4, 2009
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: 2009-0210-A

3518 Bay Drive

W/side of Bay Drive, 113 feet north of centerline of intersection of Bay Drive

15th Election District – 6th Councilmanic District.

Legal Owners: Michael Hawk

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Hearing: Tuesday, April 14, 2009 at 11:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Michael Hawk, 3518 Bay Drive, Baltimore 21220
William Bafitis, Bafitis & Associates, 1249 Engleberth Road, Baltimore 21221

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, MARCH 30, 2009.**
- (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, March 31, 2009 Issue - Jeffersonian

Please forward billing to:
Bill Bafitis
1249 Engleberth Road
Baltimore, MD 21221

410-391-2336

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: 2009-0210-A

3518 Bay Drive

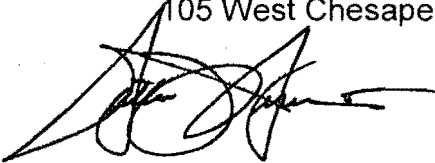
W/side of Bay Drive, 113 feet north of centerline of intersection of Bay Drive

15th Election District – 6th Councilmanic District

Legal Owners: Michael Hawk

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Hearing: Tuesday, April 14, 2009 at 11:00 a.m. in Room 104, Jefferson Building,
105 West 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.

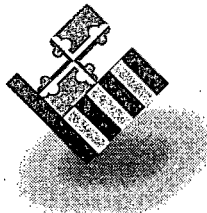
OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 2009-0210-A
Petitioner: MICHAEL HAWK
Address or Location: 3518 BAY DRIVE

PLEASE FORWARD ADVERTISING BILL TO:

Name: Bill Basitis
Address: 1249 Englebert Rd
Balto. MD 21221
Telephone Number: 410-391-2336



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
April 9, 2009

Michael Hawk
3518 Bay Dr.
Baltimore, MD 21220

Dear: Michael Hawk

RE: Case Number 2009-0210-A, 3518 Bay Dr.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on February 11, 2009. 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
William N. Bafitis: Bafitis & Associates, Inc; 1249 Engleberth Rd.; Baltimore, MD 21221

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: February 18, 2009

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

SUBJECT: Zoning Advisory Committee Meeting
For February 23, 2009
Item No. 2009-0210-A

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

The base flood elevation for this site is 10.2 feet Baltimore County Datum.

The flood protection elevation for this site is 11.2 feet.

In conformance with *Federal Flood Insurance* requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.

The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the *Baltimore County Building Code* must be followed whereby elevation limitations are placed on the lowest floor (*including basements*) of residential (*commercial*) development.

The building engineer shall require a permit for this project.

The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.

Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the *International Building Code*.

DAK:CEN:lrk

cc: File

ZAC-ITEM NO 2009-0210-A-02232009

TB 4/14
11am

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

APR 09 2009

ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination *ML*

DATE: April 3, 2009

SUBJECT: Zoning Item # 2009-0210-A
Address 3518 Bay Drive
(Hawk Property)

Zoning Advisory Committee Meeting of February 16, 2009

_____ 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:

_____ 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).

_____ Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

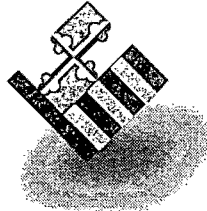
X Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

The property is within the Chesapeake Bay Critical Area and is designated a Limited Development Area (LDA) and a Buffer Management Area (BMA). Lot coverage is limited to 31.25% with mitigation and the 15% afforestation requirement must be met. In addition, any development within the 100-foot buffer must meet all BMA provisions.

Reviewer: Regina Esslinger Date: March 17, 2009

S:\Devcoord\1 ZAC-Zoning Petitions\ZAC 2009\ZAC 09-210-A 3518 Bay Dr.doc



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

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

February 19, 2009

ATTENTION: Zoning Review Planners

Distribution Meeting Of: February 16, 2009

Item Numbers 0200, 0203, 0204, 0205, 0206, 0207, 0208, 0210

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.

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

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4881 (C) 443-829-2946
MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: March 4, 2009

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

SUBJECT: 3518 Bay Drive

INFORMATION:

Item Number: 9-210

Petitioner: Michael Hawk

Zoning: RC 5

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request. However, this office is required to provide a statement of finding to the Zoning Commissioner indicating how the proposed construction complies with the current RC 5 requirements. To prepare the statement of finding, the following information must be submitted to this office:

1. Photographs of existing adjacent dwellings.
2. Submit building elevations (all sides) of the proposed dwelling to this office for review and approval prior to the hearing. The proposed dwelling shall be compatible in size and architectural detail as that of the existing dwellings in the area. Ensure that the exterior of the proposed building(s) uses the same finish materials and architectural details on the front, side, and rear elevations. Use of quality material such as brick, stone, or cedar is encouraged.
3. Design all decks, balconies, windows, dormers, chimneys, and porches as a component of the building following dominant building lines. Decks shall be screened to minimize visibility from a public street.

4. Design all accessory structures at a scale appropriate to the dwelling and design garages with the same architectural theme as the principal building on the site, providing consistency in materials, colors, roof pitch, and style.
5. Provide landscaping along the public road, if consistent with the existing streetscape.

For further questions or additional information concerning the matters stated herein, please contact Laurie Hay with the Office of Planning at 410-887-3480.

Prepared By: Candis P. Lewis

Division Chief: Ryan L. Latham

CM/LL



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

State Highway
Administration

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

Maryland Department of Transportation

Date: FEB. 23, 2009

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

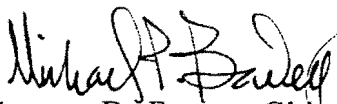
RE: Baltimore County
Item No. 2009-0210-A
3518 BAY DRIVE
HAWK PROPERTY
VARIANCE -

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2009-0210-A.

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

Very truly yours,


for Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

My telephone number/toll-free number is _____

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

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



RE: PETITION FOR VARIANCE * BEFORE THE
3518 Bay Drive; W/S Bay Drive, 113' N * ZONING COMMISSIONER
c/line of Bay Drive intersection *
15th Election & 6th Councilmanic Districts * FOR
Legal Owner(s): Michael Hawk *
Petitioner(s) * BALTIMORE COUNTY
* 09-210-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

FEB 26 2009

.....

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 26th day of February, 2009, a copy of the foregoing Entry of Appearance was mailed to Bafitis & Associates, Inc, 1249 Engleberth Road, Baltimore, MD 21221, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



MEMO

From: Aaron Tsui, Planner II

February 12, 2009

To: Zoning Commissioner/File

Re: Variance Case no. 2009-0210-A
New Single Family Dwelling to replace existing SFD in RC5
3518 Bay Drive, 15th Election District

In the opinion of this Office, one of the four (4) requested variances by the petitioner for the proposed new SFD on an undersized lot is not applicable since there is an existing single family dwelling on the lot. It is a replacement of dwelling with a record plat. Hence, the RC5 lot area regulation requirement per Section 1A04.3B1a and the undersized lot regulation per Section 304 do not apply.

DATE 4-14-09

Michael Hawk	3518 Bay Drive	Baltimore, MD 21220
--------------	----------------	---------------------

Case No.: 2009-0210-A

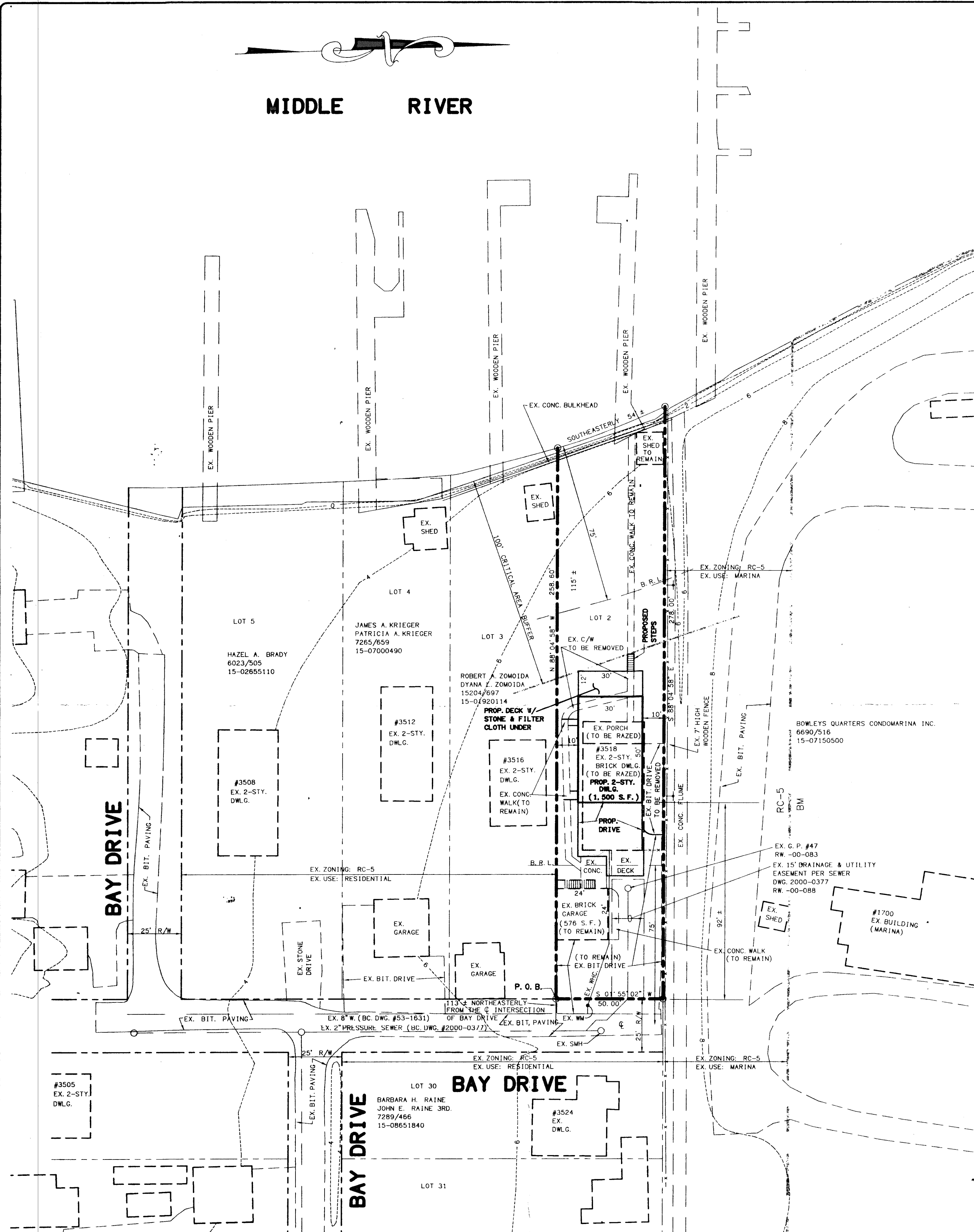
Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	Site Plan	
No. 2	Aerial Photograph	
No. 3	Photographs	
No. 4	Elevation Drawing	
No. 5	Record Plat	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

MIDDLE RIVER



NOTES

1. Topography shown hereon was taken from Baltimore County GIS Topography.
2. The Firm Insurance Rate Map, Panel 445 of 575 indicates this site is situated within flood Zones AE with a Flood Elevation of 9.0 (NAVD 88) for this site. Baltimore County requires a minimum first floor elevation of 9.5) NAVD 88.
3. Property lines shown hereon were established by public records.
4. This site is situated within the Chesapeake Bay Critical Areas and is classified by land use as Limited Development Area (LDA) (MAP 98).
5. There shall be no clearing, grading, construction or disturbance of vegetation within the Buffer Management Area except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
6. Any Critical Area easement shown hereon is subject to protective covenants which may be found in the Land Records of Baltimore County and which restrict disturbance and use of these areas.
7. This site is situated within a Mapped Buffer Management Area of the Chesapeake Bay Critical Areas.
8. There are no forest or developed woodlands on this site.
9. There are no Tidal or Non-Tidal wetlands on this site.
10. There is no significant plant or animal habitat on this site.
11. There are no slopes greater than 15% on this site.
12. There are no known wells on this site.
13. There are no known underground storage tanks or septic systems on this site.
14. There are no known potentially hazardous materials on this site as defined by Title 7-Health and Environmental Article, Annotated Code of Maryland, except as noted.
15. There are no buildings or property within this site that are included on the Maryland Historical Trust Inventory, The Baltimore County Landmarks List, the National Register of Historic Places, the Maryland Archeological Survey or is a Baltimore County Historical District.
16. The site has 54'± of water frontage.
17. Public Water and sewer serve this site.
18. This site has not been the subject of the CRG, DRC, or Waiver Processes.
19. Caution underground utilities may exist in Bay Drive & onsite, contact Miss Utility (800-257-7777) prior to any construction.
20. Proposed dwelling height 38'.
21. All roof downspouts must discharge rainwater runoff on-to a pervious surface.
22. All proposed work for this site is outside the 100' critical area buffer.

IMPERVIOUS AREAS

EXISTING

DWELLING & PORCH	1,725 S.F.
GARAGE	576 S.F.
DRIVEWAY	2,840 S.F.
WOODEN DECK	180 S.F.
CONC. PAD	180 S.F.
CONC. WALK	720 S.F.
SHED	187 S.F.
CONC. BULKHEAD	54 S.F.
TOTAL	6,462 S.F.
	13,255 S.F. = 48.8%

PROPOSED

DWELLING	1,500 S.F.
GARAGE	576 S.F.
DRIVEWAY	3,553 S.F.
SHED	187 S.F.
NEW WALK	406 S.F.
CONC. BULKHEAD	54 S.F.
TOTAL	6,276 S.F.
	13,255 S.F. = 47.3%

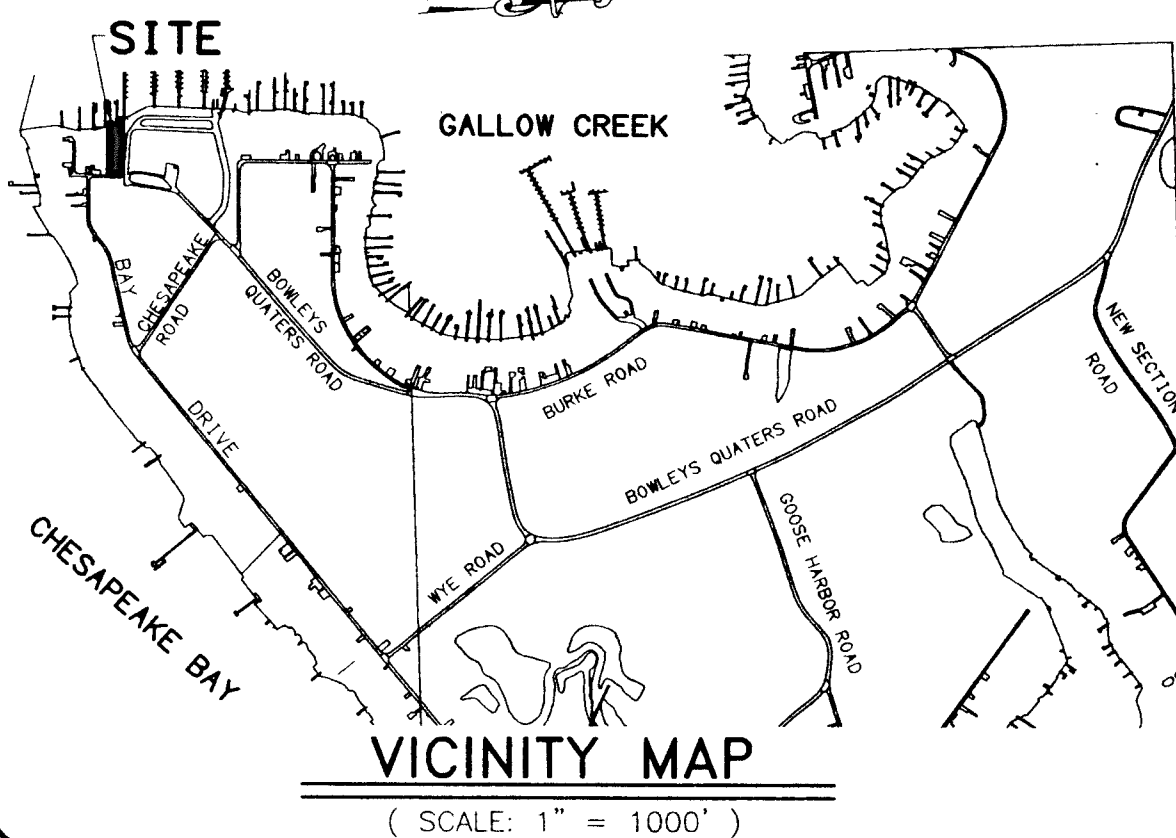
ZONING HISTORY

THERE ARE NO ZONING CASES FOR THIS SITE.

ZONING VARIANCES

1. TO ALLOW 10' SIDEYARD SETBACKS IN LIEU OF THE REQUIRED 50' SIDEYARD SETBACKS IN A RC-5 ZONE PER SECTION 1A04.3 B2d. (B.C.Z.R.).
2. TO ALLOW 17% BUILDING COVERAGE IN LIEU OF THE REQUIRED 15% BUILDING COVERAGE IN A RC-5 ZONE PER SECTION 1A04.3 B3. (B.C.Z.R.).
3. TO ALLOW UNDERSIZED LOT OF 0.307 ACRES IN LIEU OF THE REQUIRED 1 1/2 ACRES OF LAND IN A RC-5 ZONE PER SECTION 1A04.3 B1a. (B.C.Z.R.).
4. TO ALLOW A 38' BUILDING HEIGHT IN LIEU OF OF THE REQUIRED 35' BUILDING HEIGHT IN A RC-5 ZONE PER SECTION 1A04.3A. (B.C.Z.R.).

MIDDLE RIVER

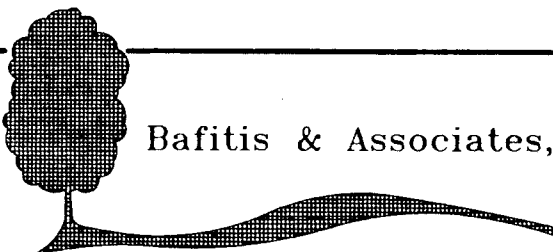


SITE DATA

- 1) OWNER: MICHAEL C. HAWK
#3518 BAY DRIVE
BALTIMORE, MARYLAND 21220
- 2) DEED REF: 21023/315
- 3) TAX ACC. NO.: 15-19000190
- 4) TAX MAP: 98 PARCEL: 16 LOT: 2
- 5) PLAT REF: PLAT 3 OF BOWLEYS QUARTERS BOOK 09 FOLIO 56
- 6) ELECTION DISTRICT: 15TH
- 7) COUNCILMANIC DISTRICT: 6TH
- 8) REGIONAL PLANNING DISTRICT: 322B
- 9) CENSUS TRACT: 4518.02
- 10) ZONING: RC-5
- 11) ZONING MAP: 098C1 & 098C2
- 12) USE: EXISTING: RESIDENTIAL 2-STY. DWELLING
PROPOSED: RESIDENTIAL 2-STY. DWELLING
- 13) SITE AREA:
LAND AREA = 13,255 S.F. OR 0.304 AC.
WATER AREA = 133 S.F. OR 0.003 AC.
TOTAL AREA = 13,388 S.F. OR 0.307 AC.

PETITIONER'S

EXHIBIT NO. 1



Bafitis & Associates, Inc.

William N. Bafitis, P.E.
PRESIDENT

Civil Engineers/Land Planners
SURVEYORS

1249 Engleberth Rd. Baltimore, MD 21221

(410) 391-2336

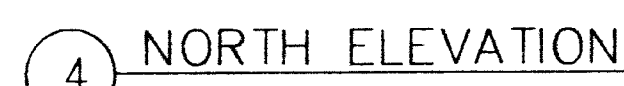
PLAT TO ACCOMPANY
PETITION FOR ZONING VARIANCES

FOR
#3518 BAY DRIVE

15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

	1	SCALE: 1" = 30'
		JOB ORDER NO: 20826
Professional Certification: I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland, License No. 11641 Expiration Date: 09/09/2009	SHEET 1 OF 1	DATE: 02/05/09
		CHECKED: R.W.S.
		DRAWN: N.W.B.
NO.	REVISIONS	DATE

2009-0210-A



William N. Bafitis, P.E.
PRESIDENT

Civil Engineers/Land Planners
SURVEYORS
ph. (410) 391-2336
fax (410) 391-2448

Bafitis & Associates, Inc.

1249 Engleberth Rd. Baltimore, MD 21221

**Exterior
Elevations
For**

The Michael Hawk House

Baltimore County, MD

[illegible]

SCALE: 1/4"=1'-0"

Issue date:
February 05, 2009

Project No.
98020

Sheet No.
A6
6 of 8

ELEVATIONS

Baltimore County - My Neighborhood



Copyright (C) 2005 Baltimore County, Maryland

PETITIONER'S

EXHIBIT NO.

2

2009-0210-A



Photo A



PETITIONER'S

EXHIBIT NO. 3A-K

Photo B



Photo 8



Photo 9



Photo 6



Photo 15



Photo G



Photo H



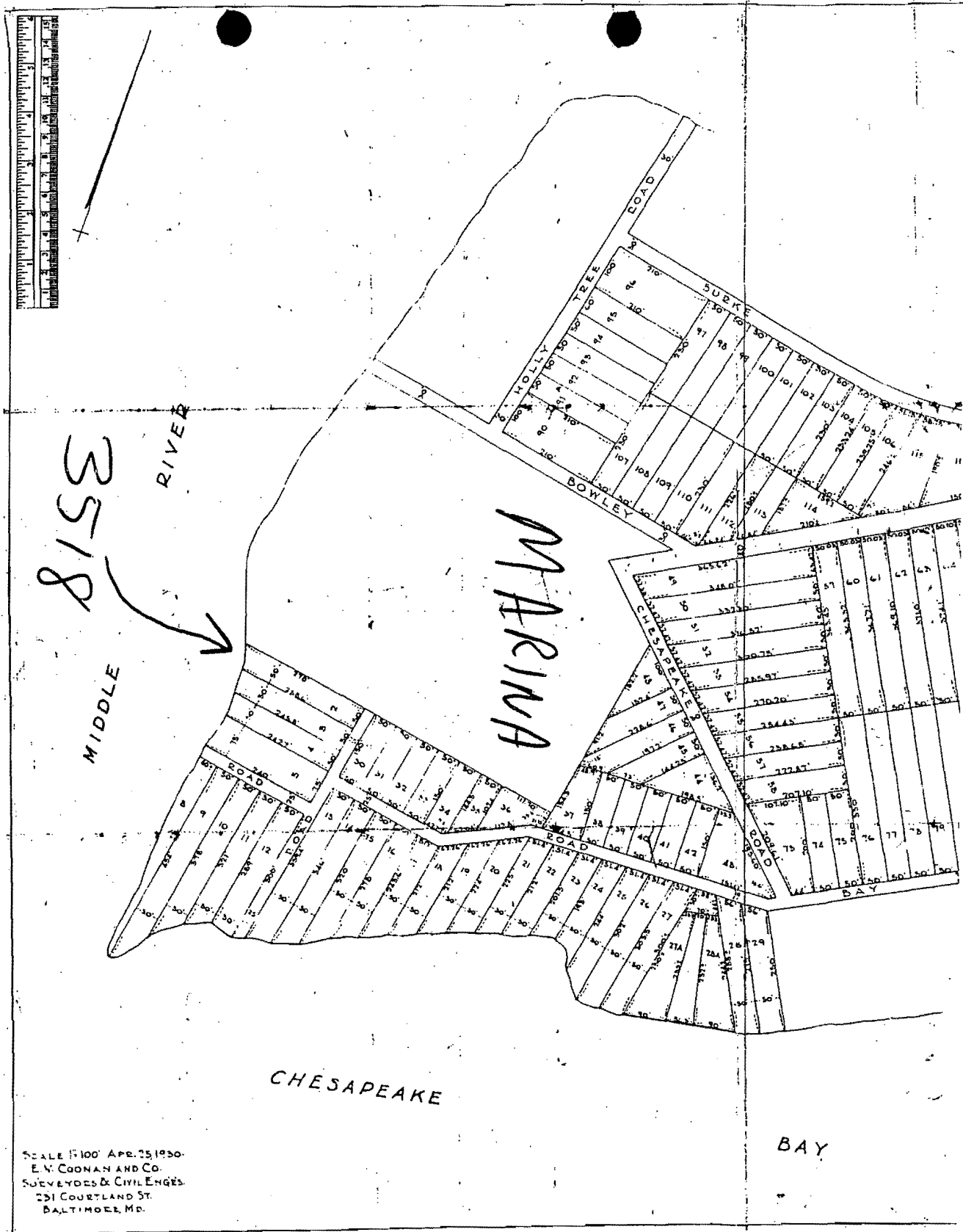
Photo 9



Photo 10



Photo K



PETITIONER'S

EXHIBIT NO.

5