9/14/10

IN THE MATTER OF THE APPLICATION OF KAREN TREAT AND ALVERTA TUTCHTON/LO FOR ADMINISTRATIVE VARIANCE ON THE PROPERTY LOCATED ON THE N/S HOLLY BEACH RD., 270' E/C/LINE OF HENRIETTA AVENUE (2610 HOLLY BEACH ROAD) 15TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT	* BEFORE THE * COUNTY BOARD OF APPEALS * OF * BALTIMORE COUNTY * CASE NO. 10-152-A

* * * * * * * * * *

ORDER OF DISMISSAL

This matter comes to the Board on appeal filed by David Jacobs on the January 31, 2010 decision of the Deputy Zoning Commissioner in which the requested relief was granted with restrictions.

WHEREAS, a hearing was scheduled to be held before this Board on Tuesday, September 21, 2010 at 10:00 a.m. However, the Board convened for a hearing on Tuesday, September 14, 2010 at 10:00 a.m. , in lieu of the scheduled hearing time. Arnold Jablon, Esquire, (and/or his assigned representative) appeared on behalf of Karen Treat and Alverta Tutchton, Legal Owners/Petitioners. Lawrence E. Schmidt, Esquire, GILDEA & SCHMIDT, LLC, appeared on behalf of Mr. David Jacobson, Appellant. At the onset of the hearing, Counsel for said parties indicated that this matter is now concluded as to all parties pursuant to a settlement/agreement that has been reached between the parties.

WHEREAS, it is requested on behalf of said Appellant that the appeal filed in Case No. 10-152-A be withdrawn and dismissed with prejudice as of September 14, 2010,

IT IS HEREBY ORDERED this 14th day of September, 2010 by the Board of Appeals of Baltimore County that said appeal be and the same is hereby **DISMISSED with prejudice**.

BOARD OF APPEALS
OF BALTIMORE COUNTY

Maureen E. Murphy, Panel Chair

Lawrence S. Wescott

Andrew M. Belt

County Board of Appeals of Baltimore County

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

September 14, 2010

Arnold Jablon, Esquire
Venable
210 W. Pennsylvania Ave, Ste 500
Towson, MD 21204
Via Hand Delivery

Lawrence Schmidt, Esquire
Gildea & Schmidt, LLC
600 Washington Ave, Ste 200
Towson, MD 21204
Via Hand Delivery

RE: *In the Matter of: Karen Treat – Legal Owner/Petitioner*
Case No.: 10-152-A

Dear Counsel:

Enclosed please find a copy of the Order of Dismissal issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Theresa Shelton/kc

Theresa R. Shelton
Administrator

TRS/klc
Enclosure

c: Karen Treat
David Jacobs
Office of People's Counsel
William J. Wiseman, III, Zoning Commissioner
Thomas Bostwick, Deputy Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, III, Director/Planning
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney

9/14/10

IN RE: PETITION FOR VARIANCE N side of Holly Beach Road; 270 feet W of the centerline of Henrietta Avenue	*	BEFORE THE COUNTY
	*	BOARD OF APPEALS
2610 Holly Beach Road	*	FOR
15th Election District 6th Councilmanic District	*	BALTIMORE COUNTY
	*	
Karen Treat & Alverta Tuchton *Petitioners*	*	**Case No.: 2010-0152-A**

* *

NOTICE OF DISMISSAL

David Jacobs, by and through his attorneys, Lawrence E. Schmidt and Gildea & Schmidt, LLC, hereby dismisses his appeal of the Findings of Fact and Conclusions of Law dated January 31, 2010, by Thomas H. Bostwick, Deputy Zoning Commissioner of Baltimore County, with prejudice.

Respectfully submitted,

LAWRENCE E. SCHMIDT
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
Attorney for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the **14th** day of **September, 2010,** a copy of the foregoing Notice of Dismissal was hand delivered to:

Timothy M. Kotroco, Director
Department of Permits and Development Management
111 W. Chesapeake Avenue, Room 105
Towson, MD 21204

Arnold E. Jablon, Esquire
Venable, LLP
210 West Pennsylvania Avenue, Suite 500
Towson, MD 21204

LAWRENCE E. SCHMIDT

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

April 27, 2010

Lawrence M. Stahl, Chariman
County Board of Appeals of Baltimore County
The Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: In the Matter of David Jacobs
2606 Holly Beach Road Road
Case No. 9-279-A

In the Matter of Karen Treat & Alverta Tutchton -Petitioner
2610 Holly Beach Road
Case No. 10-125-A

Dear Mr. Stahl,

These cases both involve petitions for variances involving neighbors David Jacobs and Karen Treat have, respectively, appealed the decisions of Deputy Zoning Commissioner to grant the specified variances, subject to conditions. The decision in the Jacobs case (9-279-A) is dated June 23, 2009, and the decision in the Treat case is dated January 31, 2010.

Upon review of the opinions and the files, we offer the following observations.

Each petition must be determined on its merits *de novo*. Petitioner Jacobs has requested consolidation for hearing purposes. This appears unwarranted and a potential source of confusion. This is not comparable to a court situation involving claims and counterclaims. Rather, each petition is different, and each site is different. It would make sense to have the same County Board of Appeals (CBA) panel hear each case, so as to minimize the chance for inconsistent approaches.

The Court of Appeals has recently discussed variance law in Trinity Assembly of God v. People's Counsel for Baltimore County 407 Md. 53 (2008), including the uniqueness and practical difficulty standards, their interrelationship, and the sometimes overlooked requirement that the proposal be consistent with the public health, safety, and welfare. This decision provides a road map, which should be followed in each of the present cases. It should be underlined that DZC Bostwick's view that lots may be unique because created prior to the advent of zoning laws is erroneous. Every zoning law includes new restrictions which limit what property owners could do previously. Here, the fact that the lots are 50-feet wide does not really make them

unique. The problem seems to be that unless variances are allowed in the R.C. 5 Zone mapped in older neighborhoods, there would be a halt to additions and other improvements. Even if this is a concern, it should not be overcome by the fiction that the lots are thereby unique. This fiction could set a dangerous precedent.

There was a question raised in the Jacobs case as to the location of the front yard. Ordinarily, in waterfront property cases, the waterfront boundary of the property is considered to demarcate the front yard. This is subject to review of the situation. The Zoning Commissioner's Policy Manual Section 400.1.a draws from earlier decisions in providing relevant criteria, including the orientation of the existing dwelling and other buildings, the orientation of other houses and accessory buildings on other nearby waterfront lots, and an inspection of the property. Section 400.2.a(1) indicates that when the proposed home fronts on the water, the water is the front property line. The CBA should therefore evaluate each case in light of these criteria. Whether or not a different result can or should occur on each lot is doubtful, but arguable depending on the orientation of the houses and accessory buildings.

Another question raised in the Jacobs case is whether the petition for variance is defective or incomplete because petitioner failed to ask for a variance for the side yard setback of 15 feet instead of 50 feet on the west side of the property. Petitioner claimed that this was unnecessary because of the request for the greater side yard setback of 11 feet instead of 50 feet on the east side of the property. DZC Bostwick did not require correction of the Petition. This is a plain error. The request for any particular variance does not excuse the omission of other relevant variance requests. The relative size of the requests is irrelevant. The location and circumstances of each variance request would present different facts and different issues with respect to some or all of the criteria. The omission is unacceptable and unlawful.

Meanwhile, there is a question raised in the Treat case as to whether the proposed gazebo counts as a "building" for the purpose of the impermeable surface standard in the R.C. 5 Zone. The BCZR §101.1 definition refers to " a structure enclosed within exterior walls or fire walls for the shelter, support, or enclosure or persons, animals or property of any kind." See also County Code § 32-4-101(g). While the walls of a gazebo are more open than the usual wall, we believe that the overall purpose of the impermeable surface standard and building definition indicates a legislative purpose to include gazebos. A gazebo has the same impact on impermeable surface runoff as any other building. Many web definitions of gazebos refer to them as buildings. See attached.

North v. St. Mary's County 99 Md. App. 502 (1994), a prominent variance case involving the Chesapeake Bay Critical Area law, addressed a request for a gazebo. While there was no specific question presented as to whether the gazebo was a "building," the opinion did refer to the desire "to construct the gazebo" and that, presumably, "the purpose of the gazebo was to furnish shade and protection from the rain ...." 99 Md. App. 517, 519. This is consistent with the BCZR §101.1 definition of building here.

DZC Bostwick exempted the gazebo from the impermeable surface calculation. This is another errant omission. It is also a dangerous and novel precedent.

Coincidentally, these variance cases raise significant legal concerning waterfront yard delineation, the completeness (or incompleteness) of variance petitions, and the scope of the

"building definition." We hope this letter is of assistance to the CBA and to the parties in resolving these issues. Thank you in advance for your attention to this matter.

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S Demilio

Carole S Demilio
Deputy People's Counsel

PMZ\CSD\rmw

cc: Arnold Jablon, Esquire
Lawrence E. Schmidt, Esquire

VENABLE LLP

210 W. PENNSYLVANIA AVE. TOWSON, MD 21204
T 410.494.6200 F 410.821.0147 www.Venable.com

14 April 2010

Arnold Jablon

T 410.494.6298
F 410.821.0147
AEJablon@Venable.com

Sent via E-Mail

Ms. Theresa Shelton
County Board of Appeals for Baltimore County
105 West Chesapeake Ave.
Suite 203
Towson, Maryland 21204

Re: In Re: David Jacobs
Case No. 09-279A

In Re: Karen Treat
Case No. 01-152A

Dear Ms. Shelton:

I am in receipt of a copy of a letter from Mr. Schmidt in which he requests that the 2 matters above be consolidated for hearing purposes.

Please be advised that I am adamantly opposed to his suggestion.

These 2 matters are not related; each stands on its own merits. Indeed, the facts of each are different, and, in my opinion, the burdens of proof are based on entirely different factors and facts.

As I stated to you previously, I am available for the July dates we spoke about but requested that my client's case be heard in September. There is no sense of urgency for my client and due to other considerations, only one of which was addressed by Mr. Schmidt, my opposition to his request still stands.

Thank you.

Arnold Jablon

c: Lawrence Schmidt, Esq.
Karen Treat

GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE
SUITE 200
TOWSON, MARYLAND 21204
TELEPHONE 410-821-0070
FACSIMILE 410-821-0071
www.gildeallc.com

DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

April 12, 2010

Sent via Hand Delivery
Ms. Theresa R. Shelton
County Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: *In the Matter of:* **Karen Treat and Alverta Tuchton**
Case No.: 01-152-A/2610 Holly Beach Road

In the Matter of: **David Jacobs**
Case No.: 2009-279-A/2606 Holly Beach Road

Dear Ms. Shelton:

I have received your letter of April 2, 2010, regarding potential hearing dates of July 13, 14, or 15, 2010 for the above matters. Any of these dates are clear on my calendar and are acceptable.

I understand that Mr. Jablon has raised an objection to hearing these cases on those dates. First, I firmly believe that the cases should be consolidated for hearing purposes. They involve abutting properties and identical parties. Ms. Treat opposed my client's (David Jacobs) Petition for Zoning Variance for his property before the Zoning Commissioner. Mr. Jacobs opposed Ms. Treat's Petition for Zoning Variance for her property before the Zoning Commissioner. Both decisions were appealed to the Board. I cannot think of any logical reason why theses cases would not be consolidated and considered at a hearing on a single date. From the standpoint of judicial economy, the cases should be considered in this fashion.

Insofar as the hearing date, I appreciate that there is a related matter involving these parties pending in the District Court of Maryland. I understand that Mr. Jablon has requested that this collateral matter be resolved before the Board conducts its' hearing. My client advises that this matter is scheduled for trial on June 17, 2010. Therefore, it will be concluded prior to the July hearing dates.

Please advise how the Board will proceed with these matters. I have copied Mr. Jablon on this letter so that he may offer his input on this issue.

Very truly yours,

Lawrence E. Schmidt

LES: jkl
CC: Arnold E. Jablon, Esquire Venable LLP
David Jacobs

County Board of Appeals of Baltimore County

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

April 2, 2010

Lawrence E. Schmidt, Esquire
GILDEA & SCHMIDT LLC
600 Washington Avenue
Suite 200
Towson, MD 21204

Arnold Jablon, Esquire
VENABLE, BAETJER & HOWARD, LLP
210 W. Pennsylvania Avenue, S. 500
Towson, MD 21204

RE: *In the Matter of: Karen Treat and Alverta Tuchton*
Case No. 10-152-A / 2610 Holly Beach Road

and

RE: *In the Matter of: David Jacobs*
Case No. 09-279-A / 2606 Holly Beach Road

Dear Counsel:

Due to the fact that these cases cross-reference each other with regards to Appellants/Petitioners, this office is requesting that Counsel agree on a date and time for a hearing in order to advance the appeals course of action.

If you have no objection to the Board hearing both of these matters on the same day, the following dates and times are open on the Board's docket. Please contact this office upon clarification of availability, and the above referenced matters will be assigned in accordance with the agreement of Counsel

Tuesday, July 13, 2010 at 10:00 a.m.
Wednesday, July 14, 2010 at 10:00; and
Thursday, July 15, 2010 at 10:00 a.m.

Thanking you in advance for your time and cooperation in this matter. Should you have any questions, please call me at 410-887-3180.

Very truly yours,

Theresa R. Shelton
Administrator

Duplicate Original

c: David Jacobs
Karen Treat and Alverta Tutchton

APPEAL

Petition for Variance
2610 Holly Beach Road
N/side of Holly Beach Road, 270' w/of c/line of Henrietta Avenue
15th Election District – 6th Councilmanic District
Legal Owners: Karen Treat & Alverta Tutchton

Case No.: 2010-0152-A

Petition for Variance (November 2, 2009)

Zoning Description of Property

Notice of Zoning Hearing (December 2, 2009)

Certification of Publication (Jeffersonian – December 8, 2009)

Certificate of Posting (December 8, 2009) by Robert Black

Entry of Appearance by People's Counsel (Not located in file)

Petitioner(s) Sign-In Sheet – One Sheet

Protestant(s) Sign-In Sheet - None

Citizen(s) Sign-In Sheet – One Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibit
As listed on attached Exhibit Sheet (1 thru 12)

Protestants' Exhibits:
As listed on attached Exhibit Sheet (1 thru 3)

Miscellaneous (Not Marked as Exhibit)
1. Findings of Fact and Conclusions of Law for adjacent property (2009-0279-A)

Deputy Zoning Commissioner's Order (GRANTED – January 31, 2010)

Notice of Appeal received on February 17, 2010 from Lawrence Schmidt

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
See cover letter

date sent March 29, 2010, klm

APPEAL

Petition for Variance
2610 Holly Beach Road
N/side of Holly Beach Road, 270' w/of c/line of Henrietta Avenue
15th Election District – 6th Councilmanic District
Legal Owners: Karen Treat & Alverta Tutchton

Case No.: 2010-0152-A

✓Petition for Variance (November 2, 2009)

✓Zoning Description of Property

✓Notice of Zoning Hearing (December 2, 2009)

✓Certification of Publication (Jeffersonian – December 8, 2009)

✓Certificate of Posting (December 8, 2009) by Robert Black

Entry of Appearance by People's Counsel (Not located in file)

✓Petitioner(s) Sign-In Sheet – One Sheet

Protestant(s) Sign-In Sheet - None

✓Citizen(s) Sign-In Sheet – One Sheet

✓Zoning Advisory Committee Comments

RECEIVED
MAR 30 2010
BALTIMORE COUNTY
BOARD OF APPEALS

✓Petitioners' Exhibit
✓As listed on attached Exhibit Sheet (1 thru 12)

Protestants' Exhibits:
✓As listed on attached Exhibit Sheet (1 thru 3)

Miscellaneous (Not Marked as Exhibit)
✓1. Findings of Fact and Conclusions of Law for adjacent property (2009-0279-A)

✓ Deputy Zoning Commissioner's Order (GRANTED – January 31, 2010)

✓Notice of Appeal received on February 17, 2010 from Lawrence Schmidt

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
See cover letter

date sent March 30, 2010, klm

Address List

Petitioner:

Arnold Jablon, Esquire
Venable, LLP
210 W. Pennsylvania Ave, Ste 500
Towson, MD 21204

Appellant/Protestant:

Lawrence E. Schmidt, Esquire
Gildea & Schmidt, LLC
600 Washington Ave, Ste 200
Towson, MD 21204

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

March 26, 2010

Arnold Jablon
Venable, LLP
210 West Pennsylvania Avenue, Ste. 500
Towson, MD 21204

Dear Mr. Jablon:

RE: Case: 2010-0152-A, 2610 Holly Beach Road

Please be advised that an appeal of the above-referenced case was filed in this office on February 17, 2010 from Lawrence Schmidt on behalf of his client David Jacobs. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Karen Treat & Alverta Tutchton, 2610 Holly Beach Road, Essex 21221
David Martin, Martin & Phillips, 222 Bosley Avenue, Towson 21204
David & Lara Jacobs, 2606 Holly Beach Road, Essex 21221
Lawrence Schmidt, Gildea & Schmidt, 600 Washington Ave., Ste. 200, Towson 21204

2/17/10

IN RE: PETITION FOR VARIANCE N side of Holly Beach Road; 270 feet W of the centerline of Henrietta Avenue	*	BEFORE THE
	*	DEPUTY ZONING COMMISSIONER
2610 Holly Beach Road	*	OF
15th Election District 6th Councilmanic District	*	BALTIMORE COUNTY
	*	
Karen Treat & Alverta Tuchton *Petitioners*	*	**Case No.: 2010-0152-A**

* *

NOTICE OF APPEAL

David Jacobs, by and through his attorneys, Lawrence E. Schmidt and Gildea & Schmidt, LLC, feeling aggrieved by the decision of the Deputy Zoning Commissioner of Baltimore County in the Findings of Fact and Conclusions of Law dated January 31, 2010, attached hereto and incorporated herein as Exhibit No. 1, hereby appeals the aforementioned Findings of Fact and Conclusions of Law to the County Board of Appeals for Baltimore County. The review by the County Board of Appeals shall be *de novo* pursuant to the Baltimore County Charter.

Filed concurrently with this Notice of Appeal is a check made payable to Baltimore County in full payment of the costs of the appeal. Mr. Jacobs was a party below and fully participated in the proceedings.

Respectfully submitted,

LAWRENCE E. SCHMIDT
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
Attorney for Appellant

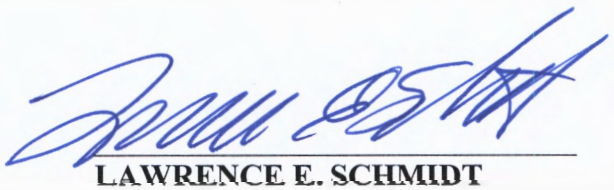
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17th day of **February, 2010,** a copy of the foregoing Notice of Appeal was mailed first class, postage pre-paid to:

Theresa R. Shelton
County Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Timothy M. Kotroco, Director
Department of Permits and Development Management
111 W. Chesapeake Avenue, Room 105
Towson, MD 21204

Arnold E. Jablon, Esquire
Venable, LLP
210 West Pennsylvania Avenue, Suite 500
Towson, MD 21204



LAWRENCE E. SCHMIDT

GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE
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DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

February 17, 2010

Via Hand Delivery
Timothy M. Kotroco, Director
Department of Permits and Development Management
111 W. Chesapeake Avenue, Room 105
Towson, MD 21204

Re: 2610 Holly Beach Road
Case No.: 2010-0152-A

Dear Mr. Kotroco:

Enclosed please find our Notice of Appeal and a check for Four Hundred Dollars ($400.00) for the above referenced case. Should you have any questions or comments, please contact me. With kind regards, I am

Very truly yours,

Lawrence E. Schmidt

LES: jkl
Enclosures
CC: David A. Jacobs, 2606 Holly Beach Road
Theresa R. Shelton, Baltimore County Board of Appeals

RECEIVED
FEB 17 2010

1/31/10

IN RE: PETITION FOR VARIANCE N side of Holly Beach Road; 270 feet W of the c/l of Henrietta Avenue 15th Election District 6th Councilmanic District (2610 Holly Beach Road)	*	BEFORE THE DEPUTY ZONING COMMISSIONER FOR BALTIMORE COUNTY
Karen Treat and Alverta Tutchton *Petitioners*	*	**CASE NO. 2010-0152-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 owners of the subject property, Karen Treat and Alverta Tutchton. Petitioners are requesting Variance relief as follows:

- From Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 3 foot setback (rear) in lieu of the required 50 feet from any lot line; and
- From Section 1A04.3.B.2.b of the B.C.Z.R. to permit a 22 foot setback (front) in lieu of 50 feet from any lot line; and
- From Section 400.1 of the B.C.Z.R. to permit a garage in the front yard in lieu of the required rear yard; and
- From Section 1A04.3.B.3 of the B.C.Z.R. to permit 21% lot coverage in lieu of the permitted 15%.

The subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1, and the colorized site plan that highlighted the requested relief, which was marked and accepted into evidence as Petitioner's Exhibit 2.

[illegible] 1.31.10

Appearing at the requisite public hearing in support of the variance requests was Petitioner Karen Treat and Arnold Jablon, Esquire, attorney for Petitioner. Also appearing in support of the requested relief was David Martin with Martin & Phillips, the landscape architect who prepared and sealed the site plan. Appearing as Protestants in opposition to the requested relief were adjacent neighbors David and Lara Jacobs of 2606 Holly Beach Road, and their attorney Jason Vettori, Esquire.

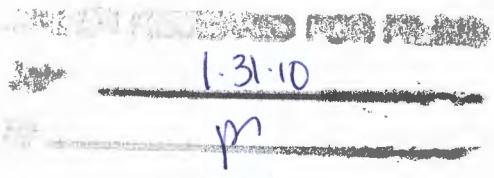
Testimony and evidence offered revealed that the subject property is rectangular-shaped and contains approximately 10,300 square feet or 0.24 acre, more or less, zoned R.C.5. The property is located on the north side of Holly Beach Road, north of Holly Neck Road and east of Back River Neck Road, in the Essex - Middle River area of Baltimore County. The property has water frontage on Middle River, near the area where Middle River meets Sue Creek to the west. As shown on the site plan, the property is improved with a two-story framed single-family dwelling, approximately 25 feet wide by 46 feet deep, along with an existing above ground pool and deck surrounding the pool. The property also has an existing concrete parking pad approximately 44 feet wide by 15 feet deep fronting along Holly Beach Road, a concrete walk leading to the pool area, and a paver patio measuring approximately 25 feet wide by 14 feet deep located next to the home on the water side of the home.

At this juncture, Petitioner desires to add several improvements to her home. As shown on the colorized site plan that was accepted into evidence as Petitioner's Exhibit 2, Petitioner proposes to construct a sunroom addition on the same footprint as the existing paver patio, a one-story 12 foot by 24 foot one car garage, an 11 foot by 12 foot deck extension and new stairs leading from the pool, a rectangular 12 foot by 20 foot gazebo, and a 30 foot by 30 foot flagstone patio. All of these improvements would be located on the water side of the property, and the

1-31-10

proposed garage and gazebo would be located in close proximity to the side yard at the west side of the property. In order to construct several of these improvements, Petitioner is requesting variance relief of 3 feet at the eastern property line and 22 feet at the western property line for the proposed sunroom addition, as well as relief in order to construct the proposed garage in the front yard in lieu of the required rear yard, and to permit 21% lot coverage in lieu of the permitted 15% for all of the improvements.

Petitioner's landscape architect, Mr. Martin, was accepted as an expert and provided testimony concerning the property and the need for the variance relief. The property is known as Lot 16 of the Holly Beach subdivision that was platted and recorded on February 14, 1916. A copy of the record plat was marked and accepted into evidence as Petitioner's Exhibit 4. The lot as it currently exists is nonconforming in that it does not meet the minimum acreage and setback requirements for the R.C.5 Zone. The lot itself is relatively flat, however, it falls significantly toward the shoreline, where the grade drops to water level. The existing dwelling has long been established and was once a commercial building constructed in 1924. Unlike other dwellings in the neighborhood, the orientation of the dwelling is unusual in that it is pulled very close to the road and has a side front building face, such that the "front" of the dwelling faces west, the "rear" faces east, and the "sides" face the water and the road, respectively. Due to this unusual orientation, as shown on the site plan, there is virtually no rear yard to the property, the side yard on the road side of the property is very small and serves as a parking pad for vehicles. Hence, the only area for improvements is what amounts to a very spacious side yard on the water side of the property, as depicted in the aerial photograph that was marked and accepted into evidence as Petitioner's Exhibit 6.



In support of the requested zoning relief for the proposed sunroom, Mr. Martin explained that the sunroom addition would be located off the side of the home on the water side of the property, in place of the existing paver patio. He stressed that there is no other practical location for this improvement. Because of the R.C.5 zoning of the property and the orientation of the dwelling, variance relief is needed from the 50 foot setback to a property line. He also pointed out that if the addition were somehow placed in the front yard, even more variance relief would be necessary. The proposed location would have the least, if any, visual impact to neighbors. As to the proposed garage, again because of the unusual placement of the dwelling on the lot, it is impossible to place the garage in the rear yard because almost no rear yard exists. The side yard on the road side would not be beneficial because the structure would end up too close to the road. According to Mr. Martin, the proposed location would be the most appropriate. The height would respect the limitations for an accessory structure and would be fairly innocuous compared with similar structures in the neighborhood, as shown on the aerial photograph, Petitioner's Exhibit 6.

As to the variance request to exceed the 15% lot coverage limitation required by the R.C.5 Zone to 21%, Mr. Martin explained that this requirement, similar to the 50 foot property line setback requirement, is not realistic for properties so zoned in these waterfront areas. The lots themselves are normally rather small, usually only 50 feet wide with about a quarter to a third of an acre in area -- significantly smaller than the 1.5 acres required for a newly created lot in the R.C.5 Zone. He also indicated that the R.C.5 zoning on these waterfront properties is not consistent with the characteristics of areas generally found to be zoned R.C.5, including more rural areas that offer larger homes and much larger lots to accommodate those homes, as well as additional space for septic reserve areas and drainage fields. Moreover, sufficient room for

septic systems is not necessary in these waterfront areas with the addition of public sewer systems and grinder pumps. Indeed, even with a 15% lot coverage limitation on a newly created R.C.5 lot at least 1.5 acres in size, this allows lot coverage of approximately 9,800 square feet; however, for lots (especially waterfront lots) such as the subject property that are typically in the 0.25 acre range of size, this would allow total lot coverage of only 1,633 square feet. In Mr. Martin's expert opinion, such proportions are unrealistic even for just a new home, let alone additional accessory structures and other improvements. Finally, Mr. Martin stressed that the proposed improvements would pose no detriment to the public interest or the community.

In addition, Mr. Jablon conveyed a legal argument that he believes would take the proposed gazebo out of the calculation of lot coverage percentage under Section 1A04.3.B.3 of the B.C.Z.R. According to this section, "[n]o more than 15% of any lot in an R.C.5 Zone may be covered by buildings ..." Section 101 of the B.C.Z.R. defines "building" as "[a] structure enclosed within exterior walls or fire walls for the shelter, support or enclosure of persons, animals or property of any kind." However, Mr. Jablon asserts that a gazebo is not a "building;" rather, the dictionary definition of a gazebo is "a freestanding roofed structure usually open on the sides."[1] Since the gazebo is not a building and is not part of the calculation of lot coverage percentage, Mr. Jablon argues that the actual lot coverage would be less than 18% -- closer to the 15% permitted.

In further support of the variance requests, Ms. Treatt, the property owner, testified. She has lived at the subject property since 1999 and has made a number of improvements to the property, including a new concrete parking pad, a new above ground pool to replace a larger existing pool that was damaged by Hurricane Isabel in 2003, and a new pier. Ms. Treatt desires the subject improvements to enhance her property. The sunroom addition would allow more

[1] Merriam-Webster's Online Dictionary.

room in her home, especially for her mother who would predominantly reside there; the one car garage would allow for vehicle parking and storage of household items; the gazebo would be a place for family gatherings and allow use of the yard while providing protection from the sun. A brochure with a photograph of a proposed rectangular gazebo was submitted for illustrative purposes and marked and accepted into evidence as Petitioner's Exhibit 8.

Regarding one of the unique features of the property, Ms. Treatt indicated that her dwelling was previously a one-story structure used as a bar and store from the 1920's to the early 1940's. The structure then became a dwelling and rental property and ultimately became the two-story structure as it appears today in 1988-89. Mr. Martin had earlier indicated that this history likely explains the side front building face orientation of the dwelling on the property. Finally, Ms. Treatt indicated that she does not believe her proposed improvements would negatively impact her neighbors, particularly the next door neighbors Mr. and Mrs. Jacobs. The existing pool is only about 4 feet high and the decking is about 3½ feet. The proposed garage would only be one story and meet the height restrictions, and the proposed addition would also only be one story. In addition, the proposed gazebo would not restrict view to the water, since it would not have solid walls and would not exceed the 15 feet permitted for an accessory structure. A petition signed by 11 nearby neighbors in support of the improvements was marked and accepted into evidence as Petitioner's Exhibit 10. Photographs of Petitioner's property and the two adjacent properties were marked as Petitioner's Exhibits 11A though 11F.

Testifying in opposition to the requested relief was David Jacobs, the next door neighbor residing at 2606 Holly Beach Road. Mr. Jacobs indicated that he and his family have lived at their property for approximately 7 years. One of the reasons they moved there was for the attractive water views. Mr. Jacobs also acknowledged a strained relationship with Ms. Treatt

over the last few years, which culminated in Ms. Treatt opposing Mr. Jacobs' own variance request for an addition to his home. That case was heard by the undersigned this past year and although granted, is the subject of a now-pending appeal before the Baltimore County Board of Appeals.[2] Mr. Jacobs believes Ms. Treatt's current variance requests should be denied for several reasons. These include making improvements to her property (concrete driveway, pool, decking, and pier) without permits and inspections. He also references the undated Zoning Advisory Committee ("ZAC") comment pertaining to this case, where the Department of Environmental Protection and Resource Management ("DEPRM") cites concerns with the property's current lot coverage percentage of 33.8%, in excess of the 31.25% allowed on lots of this size in the Limited Development Area ("LDA"), and that the improvements would increase lot coverage to 48%. This DEPRM comment was marked and accepted into evidence as Protestant's Exhibit 1. Mr. Jacobs also introduced a booklet with photographs of his property and Petitioner's property, which was marked collectively as Protestant's Exhibit 2. The photographs show the Jacobs' current view from their property and how they believe that view would be obstructed by Petitioner's proposed garage and gazebo.

The ZAC comments were received and are made part of the record of this case. Comments were received from DEPRM dated January 22, 2010 which indicates that the property must comply with Chesapeake Bay Critical Area Regulations ("CBCA"). The property is located in the Limited Development Area ("LDA") and Buffer Management Area ("BMA") of the CBCA. The site plan does not appear to accurately show the shoreline and no street access to the proposed garage is shown. The property is currently at 33.8% lot coverage, based on the current site plan, 263 square feet over the maximum 31.25% allowed on lots of this size in the LDA. The proposed development would add 1,494 square feet of additional coverage for a total

[2] Case No. 2009-0279-A.

of 48%. These figures may change when the site plan is corrected. In addition, the proposed gazebo, patio, and deck extension would exceed accessory structure impact square footage allowed the buffer in the BMA.

Considering all the testimony and evidence presented, I am persuaded to grant the variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance requests. The property is certainly unique based in part on the topography of the property as it slopes toward the water, but mostly due to the age of the dwelling and its layout and orientation that faces sideways, as well as the prior uses of the structure and its evolution into a two-story dwelling. I also agree with Mr. Martin's point concerning the impact of R.C.5 zoning on this property, which in my judgment renders the property unique in a zoning sense. Furthermore, I agree with Mr. Jablon's argument that the proposed gazebo should not be included in the calculation of lot coverage, since this structure does not meet the definition of a "building" contained in Section 101 of the B.C.Z.R. Hence, the calculation of lot coverage percentage without the gazebo and with the removal of an existing shed (as indicated by Petitioner) would result in a figure of 17.7%. Hence, I shall amend the requested relief "to permit 18% lot coverage in lieu of the permitted 15%."

I also find that practical difficulty and undue hardship would befall Petitioner if the requested variance relief were not granted. No matter what improvement would be planned, there is no possible way for Petitioner to comply with the R.C.5 distance to property line setback requirements. Denying the variance requests would also inhibit beneficial uses of the property that are otherwise permitted by the Regulations.

I further find that the requested variances can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public

[illegible] FOR FILING

1-31-10

[illegible]

health, safety and general welfare. It is important to note, however, that Petitioner must comply with the ZAC comments submitted by DEPRM, specifically as to lot coverage in the LDA and BMA of the Chesapeake Bay Critical Area.

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

THEREFORE, IT IS ORDERED this 31st day of January, 2010 by this Deputy Zoning Commissioner, that Petitioner's Variance requests as follows:

- From Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 3 foot setback (rear) in lieu of the required 50 feet from any lot line; and
- From Section 1A04.3.B.2.b of the B.C.Z.R. to permit a 22 foot setback (front) in lieu of 50 feet from any lot line; and
- From Section 400.1 of the B.C.Z.R. to permit a garage in the front yard in lieu of the required rear yard; and
- From Section 1A04.3.B.3 of the B.C.Z.R. to permit 18% lot coverage in lieu of the permitted 15%,

be and are hereby **GRANTED**, subject to the following:

1. Petitioner is advised that she may apply for any required building permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her 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.

1.31.10

2. 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). The site plan does not appear to accurately show the shoreline and no street access to the proposed garage is shown. The property is located in the Limited Development Area ("LDA") and Buffer Management Area ("BMA") of the CBCA. The property is currently at 33.8% lot coverage, based on the current site plan, 263 square feet over the maximum 31.25% allowed on lots of this size in the LDA. The proposed development would add 1,494 square feet of additional coverage for a total of 48%. These figures may change when the site plan is corrected. In addition, the proposed gazebo, patio, and deck extension would exceed accessory structure impact square footage allowed the buffer in the BMA.

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

1-31-10

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

February 1, 2010

ARNOLD JABLON, ESQUIRE
VENABLE, LLP
210 WEST PENNSYLVANIA AVENUE
SUITE 500
TOWSON, MD 21204

Re: Petition for Variance
Case No. 2010-0152-A
Property: 2610 Holly Beach Road

Dear Mr. Jablon:

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,

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

Enclosure

c: Karen Treat and Alverta Tutchton, 2610 Holly Beach Road, Essex MD 21221
David Martin, Martin & Phillips, 222 Bosley Avenue, Towson MD 21204
David and Lara Jacobs, 2606 Holly Beach Road, Essex MD 21221

Petition for Variance

to the Zoning Commissioner of Baltimore County for the property located at 2610 Holly Beach Road

which is presently zoned RC 5

Deed Reference: 14078 / 455 Tax Account # 1502573801

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)

(1) to permit a 3' setback (rear) in lieu of the required 50' from any lot line, pursuant to section 1A04.3.B.2b, BCZR;
(2) to permit a 22' setback (front) in lieu of 50' from any lot line, section 1A04.3.B.2b;
(3) to permit a garage in the side yard in lieu of the required rear yard, section 400.1;
(4) to permit 21% lot coverage in lieu of the permitted 15%, per section 1A04.3.B.3.

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Arnold Jablon
Name - Type or Print

Signature
Venable, LLP
Company
210 West Pennyslvania Ave. 410 494 6298
Address Telephone No.
Towson, Maryland 21204
City State Zip Code

Legal Owner(s):

Karen Treat
Name - Type or Print

Signature

Alverta Tutchton
Name - Type or Print

Signature

2610 Holly Beach Road
Address Telephone No.
Baltimore, Maryland 21221
City State Zip Code

Representative to be Contacted:

Arnold Jablon
Name
210 West Pennyslvania Ave., 410 494 6298
Address Telephone No.
Towson, Maryland 21204
City State Zip Code

Case No. 2010-0152-A

Office Use Only

Estimated Length of Hearing _____
Unavailable For Hearing _____

REV 8/20/07

Reviewed by 11/2/09 Date DT

1-31-10

MARTIN & PHILLIPS

DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1, TOWSON, MARYLAND 21204

OCTOBER 22, 2009

ZONING DESCRIPTION

2610 HOLLY BEACH ROAD

BEGINNING FOR THE DESCRIPTION OF A 0.24 ACRE TRACT IDENTIFIED AS LOT 16 OF PARCEL 205, TAX MAP 98, AT A POINT 270'+/- FROM THE INTERSECTION CENTERLINE OF HENRIETTA AVENUE AND HOLLY BEACH ROAD, THENCE N 01° 18' 00" W, 20' FEET MORE OR LESS TO A POINT OF BEGINNING #1 AT THE SOUTHERN MOST CORNER OF THE SUBJECT PROPERTY THENCE THE FOLLOWING COURSES:

1) N 01° 18' 00" W, 205', THENCE
2) S 86° 24'34"W, 50', THENCE
3) S 01° 18'00"E, 207', THENCE
4) S 88° 42'00"W, 50', THENCE
5) BACK TO THE POINT OF BEGINNING

CONTAINING 10,300 SQUARE FEET OR 0.24 ACRES OF LAND MORE OR LESS.

THE ABOVE BEARINGS ARE BASED ON THE MARYLAND STATE COORDINATE SYSTEM (NAD83/91).

NOTE: THE ABOVE DESCRIPTION IS FOR ZONING PURPOSES ONLY AND IS NOT TO BE USED FOR CONTRACTS, CONVEYANCES OR AGREEMENTS.

TELEPHONE: 410.321.8444, TOLL FREE: 866.395.8595
FAX: 410.321.1175

2010-0152-A

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

No. 52040

Date: 3/3/10

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	306	0000		6150				400.00

Total: 400.00

Rec From: Gildea + Schmidt

For: Appeal
2612 Holly Beach Rd
2010-0152-A

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

PAID RECEIPT
BUSINESS ACTUAL TIME DRW
3/09/2010 3/08/2010 11:42:49 2
REG WS02 MAIL JEVA JEE
>>RECEIPT # 675701 3/08/2010 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 052040
Recpt Tot $400.00
$400.00 CK $.00 CA
Baltimore County, Maryland

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: # 2010-0152-A
2610 Holly Beach Road
N/side of Holly Beach Road, 270 feet west of centerline of Henrietta Avenue
15th Election District — 6th Councilmanic District
Legal Owner(s): Karen Treat & Alverta Tutchton

Variance: to permit a 3 feet setback (rear) in lieu of the required 50 feet from any lot line; to permit a 22 feet setback (front) in lieu of 50 feet from any lot line 3; to permit a garage in the front yard in the lieu of the required rear yard; to permit 21% lot coverage in lieu of the permitted 15%.

Hearing: Wednesday, December 23, 2009 at 9:00 a.m. in Room 104, County Courts 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 12/699 December 8 223742

CERTIFICATE OF PUBLICATION

12/10/, 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 12/8/, 2009.

- [X] 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 2010-0152-A

Petitioner/Developer:__
Karen Treat & Alverta Tutchton

Date of Hearing/closingDecember23 , 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 2610 Holly Beach Road

The sign(s) were posted on December 8 2009
(Month, Day, Year)

Sincerely,

Robert Black **Dec11 2009**

(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

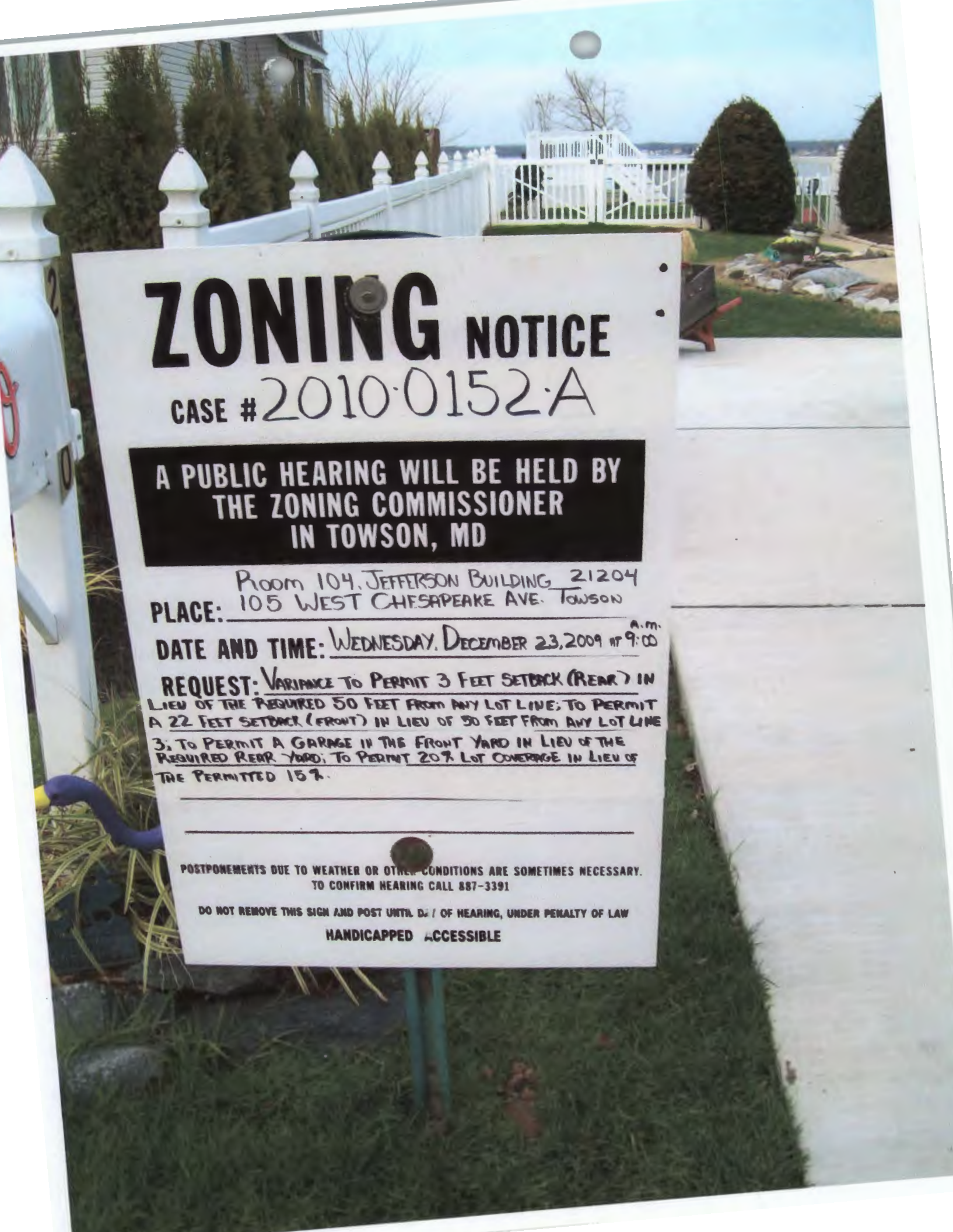
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)


ZONING NOTICE
CASE # 2010-0152-A
A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD
PLACE: Room 104, Jefferson Building 21204 105 West Chesapeake Ave. Towson
DATE AND TIME: Wednesday, December 23, 2009 at 9:00 a.m.
REQUEST: Variance to Permit 3 Feet Setback (Rear) in Lieu of the Required 50 Feet from any Lot Line; To Permit a 22 Feet Setback (Front) in Lieu of 30 Feet from any Lot Line 3; To Permit a Garage in the Front Yard in Lieu of the Required Rear Yard; To Permit 20% Lot Coverage in Lieu of the Permitted 15%.
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391
DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE

December 2, 2009

NEW 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: 2010-0152-A
2610 Holly Beach Road
N/side of Holly Beach Road, 270 feet west of centerline of Henrietta Avenue
15th Election District – 6th Councilmanic District
Legal Owners: Karen Treat & Alverta Tutchton

Variance to permit a 3 feet setback (rear) in lieu of the required 50 feet from any lot line; to permit a 22 feet setback (front) in lieu of 50 feet from any lot line 3; to permit a garage in the front yard in the lieu of the required rear yard; to permit 21% lot coverage in lieu of the permitted 15%.

Hearing: Wednesday, December 23, 2009 at 9:00 a.m. in Room 104, County Courts Building, 105 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Arnold Jablon, 210 West Pennsylvania Avenue, Towson 21204
Karen Treat & Alverta Tutchton, 2610 Holly Beach Road, Baltimore 21221

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, DECEMBER 8, 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.

County Board of Appeals of Baltimore County

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

WDK Dismissed

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

May 18, 2010

NOTICE OF ASSIGNMENT

CASE #: 10-125-A IN THE MATTER OF: Karen Treat and Alverta Tutchton
– Legal Owner /Petitioners
2610 Holly Beach Road 15th E; 6th C

Re: Petition for Variance to permit
a. rear yard setback of 3 ft ilo required 50 ft
b. front yard setback of 22 ft ilo required 50 ft
c. garage in front yard ilo required rear yard
d. 21% lot coverage ilo permitted 15%.

2/1/10 – D.Z.C.'s decision in which requested zoning relief was **GRANTED w/restrictions.**

ASSIGNED FOR: TUESDAY, SEPTEMBER 21, 2010, at 10:00 a.m. AND WEDNESDAY, SEPTEMBER 22, 2010 @ 10, IF NEEDED

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

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

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

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

Theresa R. Shelton
Administrator

---

c: Counsel for Petitioner / Applicant : Arnold Jablon, Esquire
Petitioner /Applicant : : Karen Treat and Alverta Tutchton

Counsel for Protestant/Appellant : Lawrence E. Schmidt, Esquire
Protestant/Appellant : David Jacobs

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

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

December 9, 2009

Arnold Jablon
Venable, LLP
210 W. Pennsylvania Ave.
Towson, MD 21204

Dear: Arnold Jablon

RE: Case Number 2010-0152-A, 2610 Holly Beach Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 05, 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,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Karen Treat and Alverta Tutchton; 2610 Holly Beach Rd.; Baltimore, MD 21221

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: December 10, 2009

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

SUBJECT: Zoning Advisory Committee Meeting
For December 21, 2009
Item Nos. 2010-0150, 152, 156, 157,
158, 159, 160, 161, 163, 164 and 165

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

No cover letter located in file for comments attached.

DAK:CEN:cab
cc: File
G:\DevPlanRev\ZAC -No Comments\ZAC-12212009 -NO COMMENTS.doc

BALTIMORE COUNTY
MARYLAND

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

December 10, 2009

ATTENTION: Zoning Review Planners

Distribution Meeting Of: December 6th 2009

Item Numbers: 0152, 0156, 0157,0158, 0160, 0161, 0162,0163, 0164, 0165

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

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

SHA State Highway Administration

Beverley K. Swaim-Staley, Secretary
Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: Dec. 11, 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. 2010-0152-A
2610 Holly Beach RD
Trent-Tutchton 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. 2010-0152-A.

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

Very truly yours,

Michael P. Bailey

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/mb

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

SHA
State Highway Administration
MARYLAND DEPARTMENT OF TRANSPORTATION

Beverley K. Swaim-Staley, Secretary
Neil J. Pedersen, Administrator

Date: Nov. 24, 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. 2010-0152-A
2610 Holly Beach Rd
Tutchon Property
Admin. 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. 2010-0152-A.

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

Very truly yours,

Michael P. Bailey

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/mb

TB
12-23-09

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

JAN 22 2010

ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: January 22, 2010

SUBJECT: Zoning Item # 10-152-A
Address 2610 Holly Beach Road
(Treat & Tutchton Property)

Zoning Advisory Committee Meeting of November 23, 2009

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

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 located in the Limited Development Area (LDA) and Buffer Management Area (BMA of the Chesapeake Bay Critical Area (CBCA). The site plan does not appear to accurately show the shoreline and no street access to the proposed garage is shown.

The property is currently at 33.8% lot coverage, based on the current site plan, 263 square feet over the maximum 31.25% allowed on lots of this size in the LDA. The proposed development would add 1,494 square feet of additional lot coverage for a total of 48%. These figures may change when the site plan is corrected. In addition, the proposed gazebo, patio, and deck extension would exceed accessory structure impact square footage allowed the buffer in the BMA.

Reviewer: TAK Date: 12/15/09

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: November 25, 2009

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

SUBJECT: Zoning Advisory Committee Meeting
For December 7, 2009
Item Nos. 2010-0141, 148, 149, 151,
152, 153, 154 and 155

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

DAK:CEN:cab
cc: File
G:\DevPlanRev\ZAC -No Comments\ZAC-12072009 -NO COMMENTS.doc

BALTIMORE COUNTY, MARYLAND
Interoffice Memorandum

DATE: November 5, 2009

TO: Zoning Commissioner and File

FROM: Donna Thompson, Planner II, Zoning Review

SUBJECT: Petition for Variance
Case No. 2010-0108-SPHA
2610 Holly Beach Road

This drop off petition is for a variance for a proposed garage in the front yard. On the plan are other accessory structures that are proposed. The attorney for the petitioners Arnold Jablon will address this issue at the hearing.

Please call me if you have any questions.

dt

Google define:gazebo Search Advanced Search Preferences

Web

Related phrases: perkins square gazebo eric and the gazebo gazebo garden bowser gazebo gazebo roof haunted fucking gazebo level 1 gazebo

Definitions of **gazebo** on the Web:

- a small roofed building affording shade and rest
  wordnetweb.princeton.edu/perl/webwn
- The Gazebo is a 1959 black comedy film about a married couple who are being blackmailed. It was based on the play of the same name by Alex Coppel.
  en.wikipedia.org/wiki/The_Gazebo
- Paul Mazzolini (born February 18, 1960; stage name Gazebo), is an Italian musician. He has a legend status among the fans of the "italo-disco ...
  en.wikipedia.org/wiki/Gazebo_(musician)
- A gazebo is a pavilion structure, sometimes octagonal, in parks, gardens, and spacious public areas. Gazebos are freestanding or attached to a ...
  en.wikipedia.org/wiki/Gazebo
- belvedere, either a type of summer-house or a roofed, detached porch-like structure, usually in a yard, park or lawn
  en.wiktionary.org/wiki/gazebo
- A small summerhouse or pavilion with a view, or a belvedere on the roof of a house.
  www.archiseek.com/guides/glossary/g.html
- a small structure, usually roofed and open-sided, located in gardens or parks from which one may gaze out over the surrounding grounds.
  www.gardensheds.greenhouses.arbors.learnabout.info/glossary.htm
- a building, pavilion or similar structure, often two stories high. Used as a focal point in a garden or as a shelter from wich to view the garden.
  www.copper-beech.com/glossary.html
- a small building or structure such as a summerhouse, which is often open on one or more sides to give views.
  www.bathnes.gov.uk/BathNES/environmentandplanning/planning/planningadviceguidance/Glossary+of
- Small roofed structure creating an attractive view used for entertaining outside.
  www.thompsonslandscape.com/Glossary2pg.html
- freestanding, roofed, usually open-sided structure providing a shady resting place.
  www.deckplans.com/terms-definitions
- roofed shelter for outdoor entertaining

www.refined-home.com/knowledge/glossary/glossary-e.htm

- Open structure, supported by columns and covered with a column-supported roof.
  www.new-jersey-real-estate-search.com/g/g1.html

Find definitions of **gazebo** in: **English** French German Italian Portuguese Russian Spanish all languages

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define:gazebo Search

Language Tools - Search Help - Dissatisfied? Help us improve - Try Google Experimental

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PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER 2010-0152-A
DATE 12-23-09

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
ARNOLD SABLON	210 W Pennsylvania Ave	TOWSON	
DAVID MARTIN	222 Bosley Ave	"	
KAREN TREAT	2610 Holly Beach Rd	ESSEX 21221	

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER 2010-0152-A
DATE 12-23-09

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
David Jacobs	2606 Holly Beach Rd	Essex MD 21221	
Lara Jacobs	2606 Holly Beach Rd	Essex MD 21221	

adjacent property

IN RE: PETITION FOR ADMIN. VARIANCE N side of Holly Beach Road, 220 feet E of the c/l of Henrietta Avenue 15th Election District 6th Councilmanic District (2606 Holly Beach Road)	*	BEFORE THE DEPUTY ZONING COMMISSIONER FOR BALTIMORE COUNTY
David Jacobs *Petitioner*	*	**Case No. 2009-0279-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 owner of the subject property, David Jacobs, located at 2606 Holly Beach Road. The Variance requests are from Sections 1A04.3.B.2.b and 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed two-story bedroom and garage addition on the rear of the dwelling with a side setback of 11 feet and 45 feet to centerline of road in lieu of the required 50 feet and 75 feet, respectively; and to permit a 22% building coverage for the existing dwelling and new additions in lieu of the maximum allowed of 15%. The subject property and requested relief are more particularly described on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

This matter was originally filed as an Administrative Variance and a sign was posted with a closing date of May 11, 2009. On May 6, 2009, Arnold Jablon, Esquire, on behalf of adjacent property owner Karen Treat, filed a Formal Demand for Hearing. The hearing was subsequently scheduled for Monday, June 15, 2009 at 11:00 AM in Room 104 of the Jefferson Building located at 105 West Chesapeake Avenue in Towson, Maryland. In addition, a sign was posted at the property on May 30, 2009, and an advertisement was published in *The Jeffersonian* newspaper the week of June 2, 2009, giving neighbors and interested citizens notice of the hearing.

Appearing at the public hearing in support of the requested relief was Petitioner David Jacobs and his wife, Lara Jacobs, and their attorney, Lawrence E. Schmidt, Esquire. Also appearing in support of the requested relief was Danielle M. Hankins, Petitioner's land use and design consultant. Appearing in opposition to the requested relief was Protestant Karen Treat of 2610 Holly Beach Road, and her attorney, Arnold Jablon, Esquire. There were no other interested persons in attendance at the hearing.

Following opening remarks by Petitioner's attorney, Mr. Schmidt, regarding the proeprty and the requested relief, Protestant's attorney, Mr. Jablon, made several preliminary objections in the case. In particular, Mr. Jablon indicated the Petition was defective because, although it requested side setback relief of 11 feet in lieu of 50 feet on the east side of the proeprty, there was no such variance request for the 15 foot side setback that would exist on the west side of the property. Moroever, Mr. Jablon objected to Petitioner referring to the roadside of the subject property as the "rear yard" and the waterside of the proeprty as the "front yard," and further objected to the undesigned making any findings or determinations as to what constituted the rear or front yard of the property, absent a specific request by Petitioner in his Petition, and proper posting of notice of the request. Mr. Schmidt countered that with the filing of the request for the side setback of 11 feet in lieu of the required 50 feet, there was no need for Petitioner to specifically request a variance for the 15 foot side setback on the other side of the property, and that the Zoning Reivew Office had accepted the Petition as filed. Mr. Schmidt also indicated that sufficient notice had been provided for the undersigned to make a determination on the rear yard/front yard issue.

After much discussion and debate on these and related issues, Mr. Schmidt requested leave to amend the Petition to include a request for variance for the side setback of 15 feet in lieu of the required 50 feet. In addition, in light of the technical procedural arguments back and forth,

Mr. Schmidt requested to amend the Petition to also include a variance for the distance from the proposed addition to the roadside property line of 27 feet in lieu of 50 feet with a total distance of 47 feet and not the 45 feet as filed. Mr. Schmidt also indicated that at one point, Petitioner desired to enclose a deck on the waterside of his proeprty which would contribute to the building coverage percentage on the property. Petitioner then decided against this plan and also decided to remove the existing accessory structures on the property, hence the percentage of building coverage would be approxiamtely 16.65% rather than the requested 22%. As a result, Mr. Schmidt requested to amend the Petition for the variance from the building coverage limit to 16.65% in lieu of 15%. After considering the arguments made by counsel, in the interests of justice and judicial economy, the undersigned overruled Mr. Jablon's objections and permitted the requested amendments.[1]

Testimony and evidence offered revealed that the subject waterfront property is rectangular in size and contains 10,200 square feet or 0.257 acre, more or less, zoned R.C.5. The property is located on the north side of Holly Beach Road, north of Holly Neck Road and east of Back River Neck Road, in the Essex - Middle River area of Baltimore County. The property has water frontage on Middle River, near the area where the river meets Sue Creek to the west. As shown on the site plan, the property is improved with a two-story framed single-family dwelling, approximately 24 feet wide by 48 feet deep, along with a wood deck on the waterside of the

[1] During my deliberation and consideration of this case, I reviewed the issue regarding the 15 foot side setback on the west side of the property. As indicated above, the Zoning Review Office had received the Petition without requiring Petitioner to request that variance. Moreover, Mr. Schmidt indicated it was not necessary to request that variance and that to his knowledge (as a former Zoning Commissioner), it had been the policy of the Zoning Commissioner's Office not to require this additional variance request where a petitioner had already requested a more substantial variance for the other side yard (in this case, an 11 foot side setback had already been requested). I then reviewed the Zoning Commissioner' Policy Manual (ZCPM). Section 102.1.A.1 entitled "Deficient Setbacks – Residential" states that "[i]f an addition is proposed to a residential building and any setback is deficient, this setback may be extended provided that the deficiency is not increased nor the use of the building is changed." My interpretation of this policy is that for an addition where the setback is not increased, as in this case on the west side of the property, a variance for this deficient setback is not required; hence, the requested amendment was not required and is now moot.

property. The dwelling has a traditional layout with a living room, dining room, and kitchen on the main level, three bedrooms and two full bathrooms on the second floor, and a clubroom, den, and utility room in the lower level basement. The site plan also shows a storage shed situated on the roadside of the property as well as a large concrete driveway. Though not delineated on the site plan, also situated on the waterside near the bulkhead is another storage shed. Finally, a grinder pump that is connected to the public sewer service along Holly Beach Road is shown on the site plan as situated next to the storage shed on the roadside of the property.

Petitioner has resided at the subject location for the last seven years with his wife and family, which includes a 16 year old daughter and two sons aged 12 and 10. As shown on the record plat marked and accepted into evidence as Petitioner's Exhibit 2, the property was platted as Lot 15 of the Holly Beach subdivision on February 14, 1916. The dwelling has been extensively renovated and remodeled since it was originally constructed in 1927. At this juncture, Petitioner desires to construct a two-story addition on the roadside of the dwelling with a ground level two-car garage and a bedroom on the second floor. Petitioner indicated the bedroom addition would allow him and his family to each have their own bedroom, and the garage would allow Petitioner to store his vehicles inside, away from the elements and out of sight of vandals who have broken into his truck on several occasions.

In support of the variance requests, Petitioner testified that there are only a handful of properties in his subdivision that have such a dramatic slope to the shoreline. He also indicated his lot was distinguishable from others in that his is a single, 50 foot wide lot, whereas a number of other lots in the subdivision have double and triple lots approximately 100 to 150 feet in width and can accommodate the 50 foot setback requirements to a property line that his property cannot by virtue of its 50 foot width. Petitioner also indicated the layout of improvements on the properties in the subdivision is somewhat haphazard and inconsistent. Petitioner submitted a

booklet he prepared that was marked and accepted into evidence as Petitioner's Exhibit 3. The booklet contains a rendering and elevations of the proposed addition, photographs of Petitioner's property, photographs of Ms. Treat's adjacent property, and aerial and ground level photographs of properties in the Holly Beach subdivision. In particular, the photographs illustrate the location of improvements on the properties throughout the subdivision. Some homes have been razed and replaced with newer, significantly larger homes while others appear to be originally built. There is also great variety in other improvements, with some properties having guesthouses and boathouses and/or other accessory structures on the waterside and roadside. The degree of existing building coverage between the properties is also very different, with most properties (especially those with replacement homes) having substantially more coverage than what would normally be permitted and others (primarily those with the original dwellings) having about the same or less than what Petitioner is proposing.

Petitioner also submitted a letter he presented to his nearby neighbors outlining his plans and requesting their signatures if they did not object to his plans. The letter was signed by residents at 2604, 2602, 2600, 2614, 2616, 2620, and 2622 Holly Beach Road and was marked and accepted into evidence as Petitioner's Exhibit 4. As to the issue of what constitutes the rear yard or front yard, Petitioner testified that he has lived on the water at various times throughout his life and he has always considered the waterside of a home to be the front yard and the roadside to be the rear yard. In the instant matter, Petitioner testified that all the other properties nearby that have garages have them situated on the roadside, and Mr. Schmidt indicated this is consistent with the Zoning Regulations that require garages and accessory structures to be placed in the rear yard. Petitioner also indicated that he considers the waterside of his particular home to be the front yard. Although vehicles are parked on the parking pad on the roadside and there is an entrance to the dwelling on the roadside, Petitioner testified that the primary means of

access to the dwelling is from the double sliding glass doors and stairways leading from the deck on the waterside of the property.

Testifying in opposition to the requested relief was Protestant Karen Treat. Ms. Treat resides next door to Petitioner to the east and has lived there for the last 10 years. She initially indicated that she is familiar with Petitioner's home, having been inside previously. Based on her description of the layout of the home, she believes the front of the property is at the roadside and not the waterside. She also testified as to why she is opposed to the requested relief, indicating that if Petitioner's proposed two-story addition were permitted, it would be directly in front of her home and would diminish her view from her front entrance that faces the side of her property, and would diminish the value of her home. Ms. Treat also testified that she is not against Petitioner's having a separate garage or a small addition to their home for another bedroom, but objects to the current proposal that would essentially obliterate her view from her front entrance. In support of this position, Ms. Treat submitted photographs taken from her main entrance as well as from her second floor window, looking out to the location of Petitioner's proposed addition. These photographs were marked and accepted into evidence as Protestant's Exhibits 6, 8, and 9. In short, Ms. Treat wants to keep her view of the open space from the entrance to her home (facing the side of the other nearby properties) across the other properties in the neighborhood.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Environmental Protection and Resource Management dated May 14, 2009 which indicates that development of the property must comply with the Chesapeake Bay Critical Area Regulations. The site must comply with a maximum lot coverage limit of 31.25% with mitigation if any proposed coverage is approved. The site must also comply with Buffer Management Area requirements that outline

uses and restrictions within the 100 foot tidal buffer off mean high water. In addition, a 15% forest cover requires that a minimum of three trees exist on the property at all times.

Considering all the testimony and evidence presented, I am persuaded in this instance to grant the variance requests. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance requests. I am especially persuaded by the photographs of the properties in the neighborhood contained in Petitioner's Exhibit 3, which demonstrates quite clearly how different and unique each are with respect to the size and shape of the properties and the varying and different improvements. I also find uniqueness in the fact that Petitioner's property is a 50 foot wide lot that was established far earlier than the adoption of the Zoning Regulations, particularly the R.C.5 Zone. As a result, no matter what improvement is planned, there is no possible way for Petitioner to comply with the distance to property line setback. This is the kind of peculiar circumstance that makes the regulations impact this property disproportionately compared to others in the district. Therefore I find the property unique in a zoning sense.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Denying the variance requests would inhibit a beneficial use of the property that is otherwise permitted by the Regulations. I also find these variance requests can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. While it seems that the planned addition will affect Ms. Treat's view from the main entrance of her property looking sideways at other properties along the north side of Holly Beach Road, in my view, this situation exists because Ms. Treat's property appears to be the only one with a front yard facing what is the side yards of other properties in the neighborhood. This certainly makes Ms. Treat's property unique, but it also singularly affects

the degree to which any improvements planned by Petitioner on that side of the property may impact Ms. Treat. Although I am understanding of Ms. Treat's position, I will not deny the variance requests on that basis.

Finally, I find consistent with the relief to be granted herein that the roadside in this case is the rear yard and the waterside is the front yard. As indicated in the relevant case law, factors such as the location of a front door, front walkway, the floor plan of a dwelling, positioning of windows, usages of those who live in and visit the dwelling, and exterior attributes of a dwelling, are as important as the proximity to a roadside in determining a front, side, or rear yard setback. *See, Swoboda v. Wilder*, 173 Md.App. 615, at 639 (2007). In addition, the Zoning Commissioner's Policy Manual (Z.C.P.M.) at Sections 400.1.a and 400.2.a provides a determination of what constitutes the front yard on waterfront lots based on the orientation of the houses and accessory buildings. In most cases, as is the situation here, waterfront lots refer to the front of the structure facing the water.

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 variance requests should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 23rd day of June, 2009 that a Variance from Sections 1A04.3.B.2.b and 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed two- story bedroom and garage addition on rear of dwelling with a side setback of 11 feet and 47 feet to centerline of road in lieu of the required 50 feet and 75 feet respectively; and to permit a 16.65% building coverage for the existing dwelling and new addition in lieu of the maximum allowed of 15% be and are hereby GRANTED, 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, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2. 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).

3. The site must comply with a maximum lot coverage limit of 31.25% with mitigation if any proposed coverage is approved. The site must also comply with Buffer Management Area requirements that outline uses and restrictions within the 100 foot tidal buffer off mean high water. In addition, a 15% forest cover requires that a minimum of three trees exist on the property at all times.

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

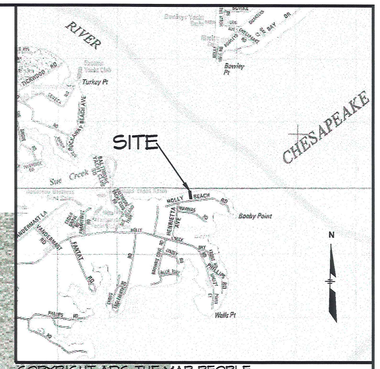
12/22/2009

2610 Holly Beach Rd
Karen Treat Property

Lot Area (S.F.)	10,300
House	1,192
Ex. Shed	80
Proposed Garage	288
Proposed Gazebo	240
Proposed Sun-room	350
Total Bldg. Coverage	2,150
Percent Bldg. Coverage	20.87%
Ex. Walkway	319
Ex. Parking Pad	1044
Proposed Driveway	469
Street Porch	681
Proposed Patio	900
Proposed Gazebo	240
	3653
Lot Coverage (S.F.)	5,803
Percent Impervious Coverage	56.34%

Prepared by:
Martin Phillips Design Associates, Inc.

PETITIONER'S EXHIBIT 3



LOCATION MAP

Zoning Relief Requests:

1. TO PERMIT A 3 FOOT SETBACK IN-LIEU-OF 50 FEET FROM ANY LOT LINE PER SECTION 1A04.3.B.2.b., BCZR
2. TO PERMIT A 22 FOOT SETBACK IN LIEU-OF 50 FEET FROM ANY LOT LINE PER SECTION 1A04.3.B.2.b., BCZR
3. TO PERMIT A GARAGE IN THE SIDEYARD IN LIEU-OF THE REAR PER SECTION 400.1., BCZR
4. TO PERMIT 21% LOT COVERAGE IN-LIEU-OF 15% PER SECTION 1A04.3.B.3, BCZR

1. OWNER: KAREN TREAT & ALVERTA TUTCHTON, 2610 HOLLY BEACH ROAD, BALTIMORE, MD 21221
2. ENGINEER: MARTIN & PHILLIPS DESIGN ASSOCIATES, INC., 222 BOSLEY AVENUE, SUITE B1, TOWSON, MD 21204, 410-321-8444
3. TAX MAP: 26
4. PARCEL NUMBER: 205, LOT 16
5. TOTAL TRACT AREA: 0.24 AC+/- OR 10,300 S.F.+/-
6. TAX ID: 1502573801
7. DEED REFERENCE: 14078/ 282
8. ELECTION DISTRICT: 15TH DISTRICT
9. COUNCILMANIC DISTRICT: 6TH DISTRICT
10. CENSUS TRACT: 4510
11. EXISTING ZONING: RC-5
12. THERE IS NO KNOWN ZONING HISTORY ON THE SUBJECT PROPERTY.
13. THE SUBJECT PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
14. THE SUBJECT PROPERTY IS LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
15. THERE ARE NO KNOWN HISTORIC AND OR ARCHAEOLOGICAL FEATURES ON THE SUBJECT PROPERTY.
16. THERE ARE NO KNOWN WELLS, SEWAGE DISPOSAL SYSTEMS, OR UNDERGROUND FUEL OR CHEMICAL STORAGE TANKS ON OR WITHIN 100 FEET OF THE DEVELOPMENT SITE.

PETITIONER'S EXHIBIT 5

N
NAVD 88 (NSRS 1988)

SCALE: 1"=100'
100 50 0 100 200 300

AERIAL PHOTO & ZONING
2610 HOLLY BEACH ROAD

OWNER:
KAREN TREAT
& ALVERTA TUTCHTON
2610 HOLLY BEACH ROAD
BALTIMORE, MD 21221

OCTOBER 22, 2009
P.N. 09-1087

MARTIN & PHILLIPS
DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1
TOWSON, MARYLAND 21204
TELE:(410)321-8444/FAX:(410)321-1175

FILENAME: 09-1087zoninghearing.s01, Hearing


2D 3D
Road Aerial
Holly Beach Rd
Microsoft Virtual Earth
© 2009
10 yrds
PETITIONER'S EXHIBIT 6

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw4.3d)

Go Back
View Map
New Search

Account Identifier: **District** - 15 **Account Number** - 1502573801

Owner Information

Owner Name:	TREAT KAREN R TUTCHTON C ALVERTA	**Use:**	RESIDENTIAL
		Principal Residence:	YES
Mailing Address:	2610 HOLLY BEACH RD BALTIMORE MD 21221-2020	**Deed Reference:**	1) /14078/ 455 2)

Location & Structure Information

Premises Address
2610 HOLLY BEACH RD

Legal Description
2610 HOLLY BEACH RD
HOLLY BEACH

WATERFRONT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
98	22	205					16	3	**Plat Ref:** 4/ 182

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1924	2,208 SF	10,300.00 SF	34

Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value As Of 01/01/2009	Phase-in Assessments As Of 07/01/2009	As Of 07/01/2010
Land	240,300	300,300		
Improvements:	294,370	252,330		
Total:	534,670	552,630	540,656	546,642
Preferential Land:	0	0	0	0

Transfer Information

Seller:	TREAT KAREN R	**Date:**	10/08/1999	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/14078/ 455	**Deed2:**	
Seller:	ROSE RICHARD J	**Date:**	08/25/1999	**Price:**	$241,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/13984/ 64	**Deed2:**	
Seller:	BOGUS HELEN,ET AL	**Date:**	08/03/1988	**Price:**	$65,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 7932/ 693	**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2009	07/01/2010
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *

PETITIONER'S EXHIBIT 7

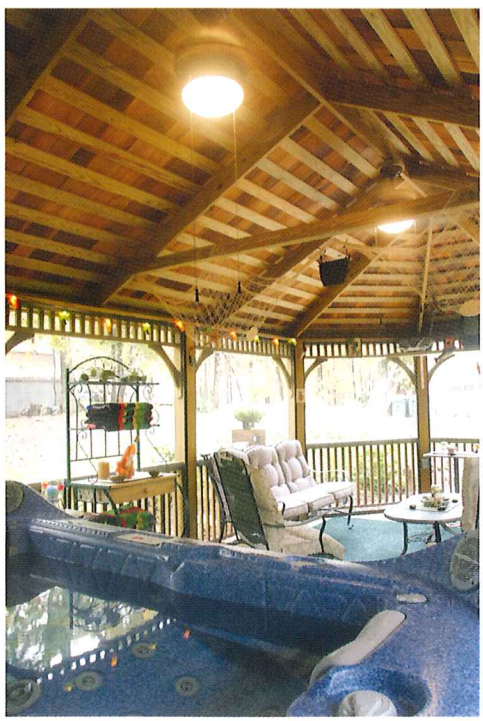
Amish Country Gazebos - Oval and Rectangle Gazebos

12x18 Vinyl Oval Pagoda with rubber slate roof, turned posts, and screen package

14x20 Vinyl Oval Pagoda with asphalt shingles, victorian braces, and screen package

12x20 Wood Rectangle painted white with asphalt shingles, and screen package

12x24 Wood Rectangle Pagoda painted white with victorian upgrades



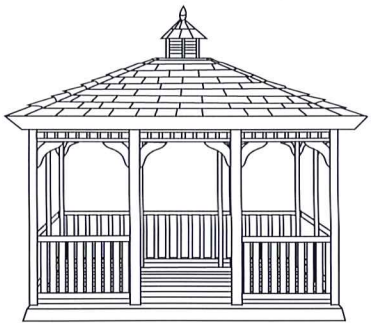
Although most homeowners prefer an octagonal gazebo for its aesthetic beauty and ease of handling, some choose the benefits of an oval or rectangular gazebo. Available in natural wood, stained finish, painted, or in maintenance-free vinyl, these gazebos are handsome, functional and spacious. If you intend to add a spa to your gazebo, then an oval or rectangular gazebo may be just right for you.

PETITIONER'S EXHIBIT 8

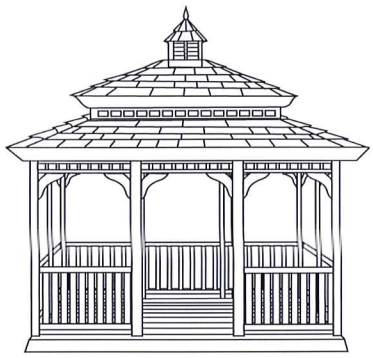
Call one of our
1(800)

Price Guide

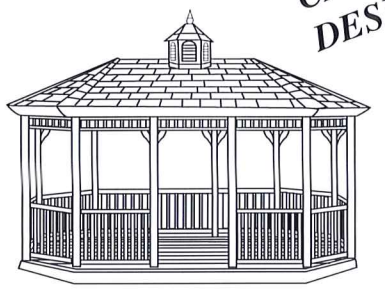
CALL YOUR DESIGNER TODAY!



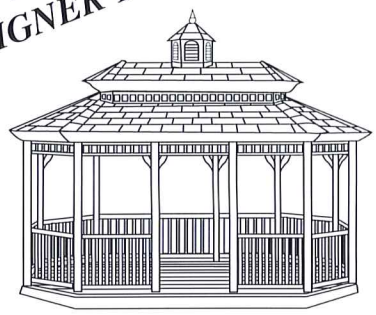
Rectangle Majestic



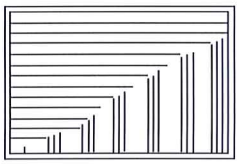
Rectangle Pagoda



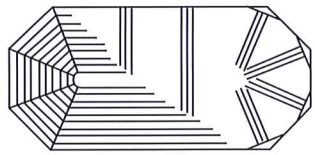
Oval Majestic



Oval Pagoda



Rectangle Floor Design



Oval Floor Design

Wood Gazebos

Size	Gazebo	Pagoda Roof	Painted White	Clear Wood Finish	Screen Package	Turned Spindles	*On Site Assembly
10x14	$4500	$800	$1000	$600	$1100	$250	$1750
10x16	$5000	$900	$1100	$700	$1200	$300	$2150
10x20	$6000	$1200	$1400	$900	$1400	$350	$2500
12x16	$5500	$1100	$1250	$800	$1300	$300	$1950
12x18	$6000	$1200	$1400	$900	$1400	$350	$2250
12x20	$6500	$1400	$1550	$1000	$1500	$400	$2600
12x24	$7500	$1600	$1900	$1200	$1700	$500	$2950
14x18	$7000	$1500	$1500	$1000	$1450	$400	$2400
14x20	$7500	$1600	$1700	$1100	$1600	$450	$2750
14x24	$9000	$1800	$2000	$1300	$1700	$500	$2950
14x28	$10500	$2000	$2400	$1500	$1950	$700	$3850

AMISH COUNTRY GAZEBOS™

1-800-700-1777

Call your gazebo designer today to learn more about how to include the following additional options:

Turned 4x4 Posts
Victorian Braces
Electrical Package
10 shingle selections
Benches
Weathervane

Call today: (800) 700-1777

Vinyl Gazebos

Size	Gazebo	Pagoda Roof	Screen Package	Turned Spindles	*On Site Assembly
10x14	$5500	$1000	$1100	$250	$1750
10x16	$6000	$1100	$1200	$300	$2150
10x20	$7000	$1400	$1400	$350	$2500
12x16	$7000	$1300	$1300	$300	$1950
12x18	$7500	$1400	$1400	$350	$2250
12x20	$8000	$1600	$1500	$400	$2600
12x24	$8500	$1800	$1700	$500	$2950
14x18	$8500	$1700	$1450	$400	$2400
14x20	$9000	$1800	$1600	$450	$2750
14x24	$10500	$2000	$1700	$500	$2950
14x28	$12000	$2200	$1950	$700	$3850

Delivery options:

1. Kit — Your oval or rectangle gazebo kit is easy to assemble, and it can be shipped anywhere in the continental USA. Please call for shipping rates.

2. *We install — Our professional installers will be happy to assemble your gazebo on site if you live within 400 miles of Manheim, PA.

3. Fully assembled — Your gazebo can be delivered fully assembled if you live within 200 miles of Manheim, PA and if you have clear access to the spot where your gazebo will be positioned.

PETITIONER'S EXHIBIT 11a

PETITIONER'S EXHIBIT 11b

PETITIONER'S EXHIBIT 11(c)


PETITIONER'S EXHIBIT #1(a)

PETITIONER'S EXHIBIT 1/e

PETITIONER'S EXHIBIT 11f

PETITIONER'S EXHIBIT 12

Case No.: 2010-0152-A

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	site plan as filed	11-23-09 DEPRM comment
No. 2	site plan that highlights requested variance relief	Protestant's pamphlet w/ photos and aerial photo.
No. 3	Spreadsheet that sets forth the % building coverage + impervious	Site Plan w/ Jacobs highlights
No. 4	Plat No 1 - Holly Beach filed 2-14-1916	
No. 5	Aerial Photograph w/ Zoning lines and subject property	
No. 6	angled aerial photograph of subject prop + nearby properties	
No. 7	SDAT printout showing building dates From 1924	
No. 8	rendering of proposed Gazebo	
No. 9	Holly Neck FDP - for "Preserve at Holly Neck"	
No. 10	Petition signed by neighbors supporters of Ms. Truitt's plans	
No. 11 A-F	Photographs of subject property	
No. 12	photographs of driveway and pad existing when she purchased	

Action petitioned for improvements at 2610 Holly Beach Road	I, the undersigned, am not in opposition of the proposed plans for improvements at 2610 Holly Beach Road as presented to me by the homeowner, Karen Treat.

Printed Name	Signature	Address	Comment	Date
Michelle Chilton	Michelle Chilton	2614 Holly Beach Rd		12-5-09
GLORIA PINEDA	Gloria J. Pineda	2706 Holly Beach Rd		12-6-09
Jacqueline Johnson	Jacqueline Johnson	903 Holly Neck Rd		
JANE E. BEACH	Jane C Beach	1220 Englebeen Rd		12.6.09
Karen Martinchek	Karen Martinchek	903 Baltimore Yacht Club Rd		12-6-9
RITA LUDICK		1231 ENGLEBERTH RD		12/6/09
JAMES L. MITCHELL		1241 ENGLEBERTH RD		12/6/09
Catherine Belbot	Catherine Belbot	2624 Holly Beach Rd		12/8/09
RONALD Belbot	R. Belbot	2624 Holly Beach Rd		12/5/09
Linda Sullivan	LINDA SULLIVAN	2600 HOLLY BEACH RD		12/8/09
PHILIP SULLIVAN	Philip Sullivan	2600 HOLLY BEACH RD		8 DEC 09

PETITIONER'S EXHIBIT 10

Action petitioned for improvements at 2610 Holly Beach Road	I, the undersigned, am not in opposition of the proposed plans for improvements at 2610 Holly Beach Road as presented to me by the homeowner, Karen Treat.

Printed Name	Signature	Address	Comment	Date
Kathleen Filar	Kathleen Filar	2626 Holly Beach Rd		11/27/09
JOHN FILAR	John Filar	2626 Holly Beach Rd.		11-27-09
Barbara Fox	Barbara J. Fox	2507 Holly Beach Rd		11/30/09
Phil Fox		2507 Holly Beach Rd		11/30/09
Regina Dawses	Regina Dawses	2512 Holly Beach Rd		11/30/09
BILL DAWSES	Bill Dawses	2512 Holly Beach Rd		11-30-09
Kathy Schmidt	Kathy Schmidt	2502 Holly Beach Rd		11/30/09
Bill Schmidt	Wm. D. Schmidt Jr.	2502 Holly Beach Road		12/1/09
Marsha Dalton	Marsha A Dalton	2723 Holly Beach Rd.		12/1/09
HELEN KAFKA	Helen Kafka	2604 Holly Beach Rd		12-2-9
CHARLES KAFKA	Charles Kafka	2604 Holly Beach Rd		12-2-9
BARBARA SULLIVAN		2612 Holly Beach Rd		12-5-09
CHARLES CHILTON	Charles Chilton Jr	26014 Holly Beach Rd		12-5-09

Case No.: 2010-0152-A

Exhibit Sheet

Petitioner/Developer

Protestant

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No. 10	Petition signed by neighbors supporting Mr Tisdale's plans	
No. 11 A-F	Photographs of subject property	
No. 12	photographs of elevation and pool equipment when she purchased	

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: LEAVE BLANK

SUBJECT: Zoning Item # 10-152-A
Address 2610 Holly Beach Road
(Treat & Tutchton Property)

Zoning Advisory Committee Meeting of November 23, 2009

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

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:

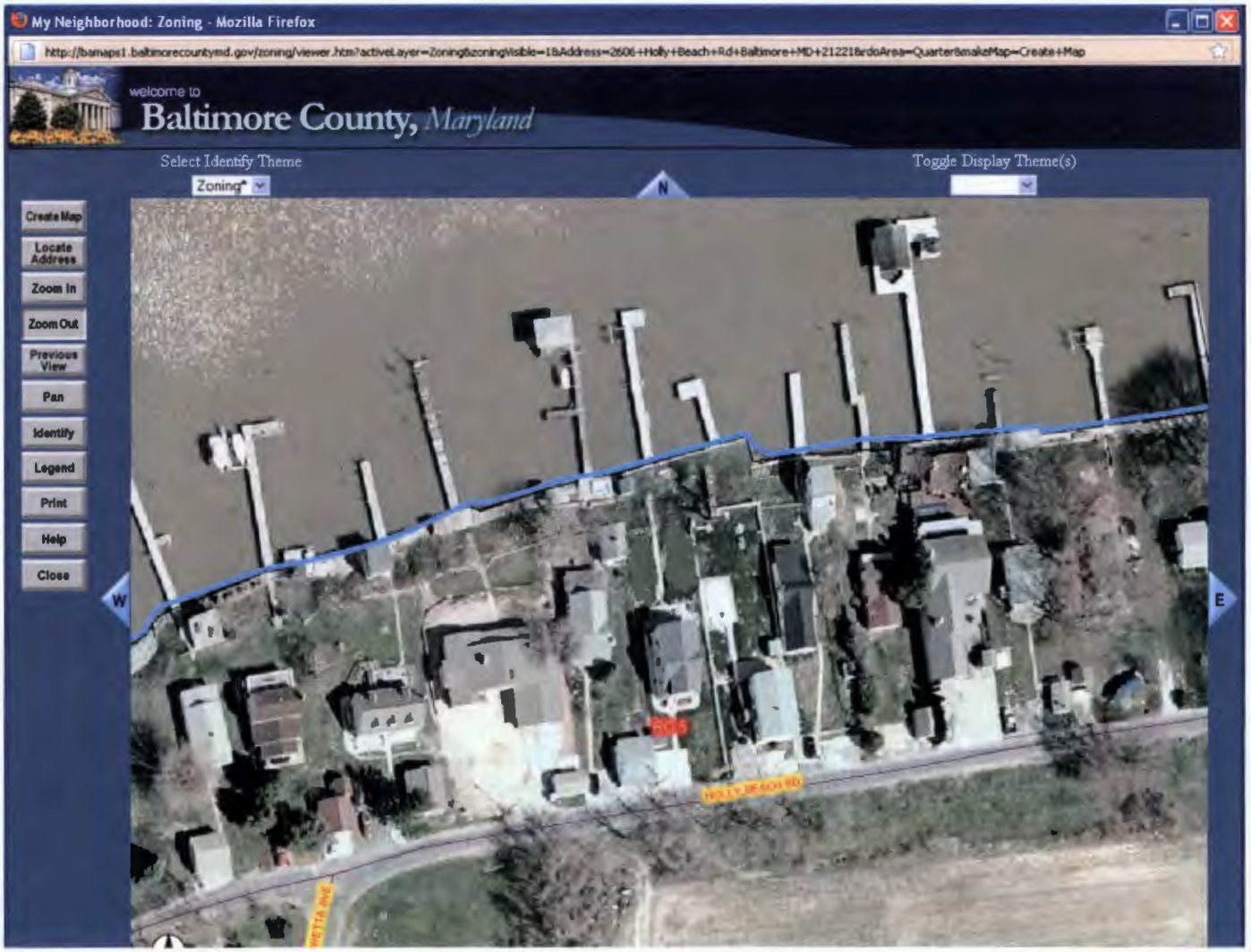
The property is located in the Limited Development Area (LDA) and Buffer Management Area (BMA of the Chesapeake Bay Critical Area (CBCA). The site plan does not appear to accurately show the shoreline and no street access to the proposed garage is shown. The property is currently at 33.8% lot coverage, based on the current site plan, 263 square feet over the maximum 31.25% allowed on lots of this size in the LDA. The proposed development would add 1,494 square feet of additional lot coverage for a total of 48%. These figures may change when the site plan is corrected. In addition, the proposed gazebo, patio, and deck extension would exceed accessory structure impact square footage allowed the buffer in the BMA.

Reviewer: TAK Date: 12/15/09

PROTESTANT'S

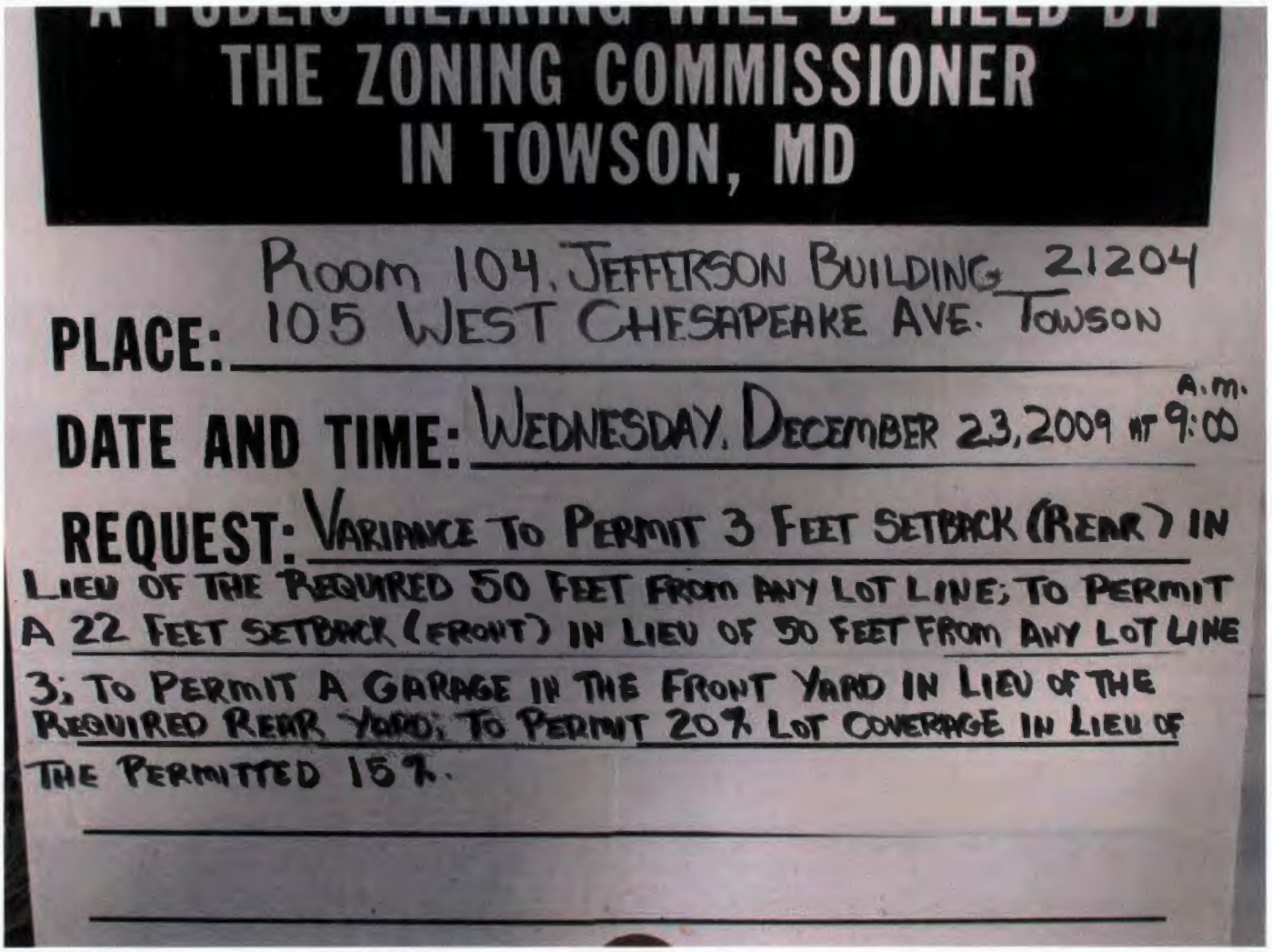
EXHIBIT NO. 1

Case Number: 2010-108-SPHA
December 13, 2009



DAVID JACOBS
2606 Holly Beach Road
Baltimore, MD 21221

PROTESTANT'S
EXHIBIT NO. 2



Above is a photograph of the zoning hearing notice placed on Ms. Treat's property.

Please notice that the sign reads "20% lot coverage".
Ms. Treat's petition was filed for 21% lot coverage.
After meeting with DEPRM I was told her proposal was for 48% lot coverage.
My calculations show 50% lot coverage.

Please explain how this hearing can even be granted.

See Plan Sheet Presented

Previous History

Case Number: *2009-0279-A*

Date: June 15, 2009

A zoning hearing was previously held in Towson in the Jefferson Building, Room 104 at 11am for the property of 2606 Holly Beach Road. This is my residence. I was proposing an attached garage with upper story bedroom for my children. The outcome of this hearing was in my favor however Ms. Treat has appealed that decision. An appeal hearing is scheduled for January 13, 2010.

A few important facts from my hearing to note:

- My garage was proposed to be attached and centered on the property for aesthetic reasons.
- Ms. Treat argued that my garage would block her view of the street from her front door.

Now to address Ms. Treat's improvements.

Jacobs view of Treat yard: Waterfront view will be obstructed where gazebo is proposed.

Jacobs view of Kafka yard: Waterfront view obstructed by summer kitchen which couldn't be built today.

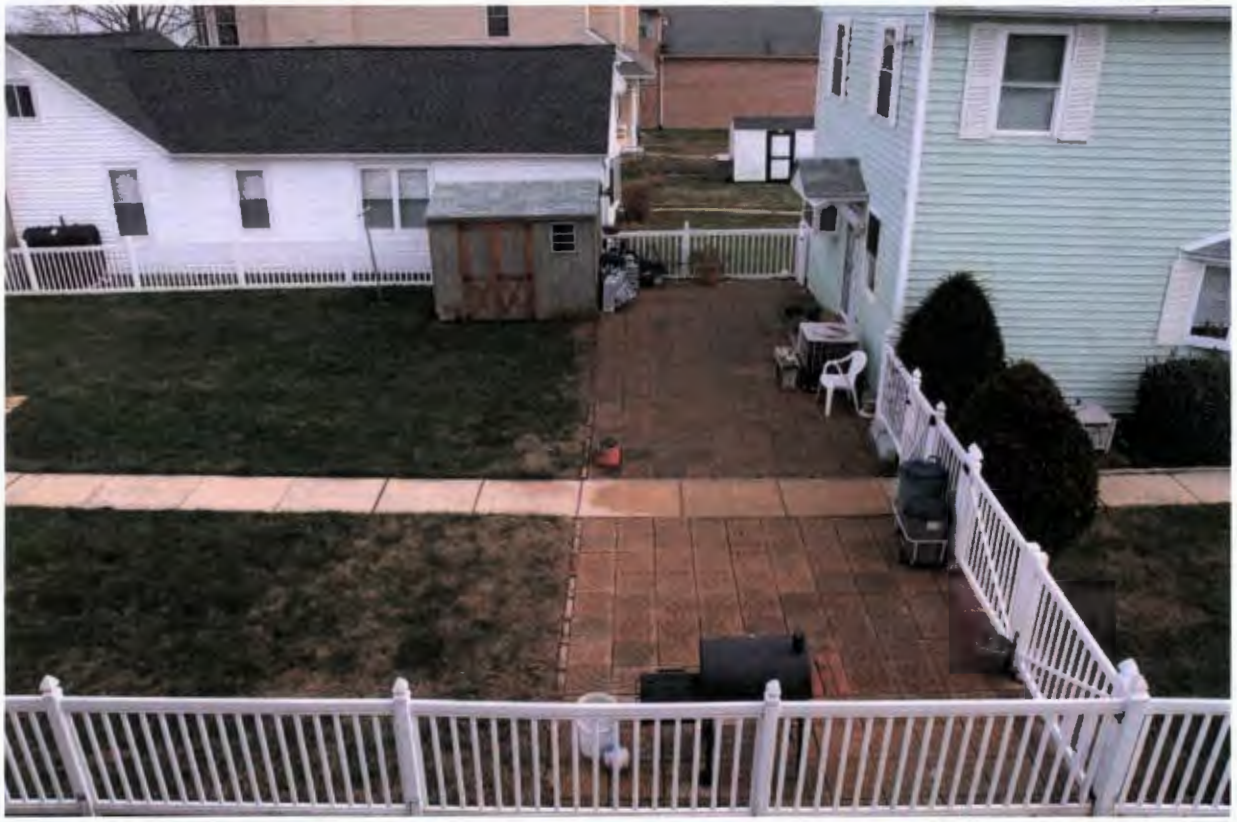
Jacobs view of water: Improvements to Treat property would deteriorate my view of the water, the reason I moved here, and diminish my property value.

Proposed location of Ms Treat's garage located 2.5 feet off fence.

Driveway to garage?

More impervious?

Busy Property line will take away from my property value.



View of Treat yard: Location of proposed sunroom. How will access be obtained?

View of Sullivan's yard: Fire code violation to have two buildings so close together?

View of Ms. Treat's existing deck and pool:
Both built without permits and 19 inches off property line.

Ms. Treat is proposing an additional deck extension and extensive steps to attach to an unpermitted structure.

This proposal will fill my entire property line with stuff. The submitted plan is not accurate.

Jacobs view of Treat yard: Waterfront view will be obstructed where gazebo is proposed.

Jacobs view of tent from summer party: Size of tent is smaller than proposed gazebo.

View of Ms. Treat's proposed patio location:
Notice newly planted trees.

View of proposed location for the trees:

Proposed between fence and gazebo along property line.

Aerial image from Baltimore County GIS data: Shows location and orientation of other piers.

View along property line:

Shows location of Ms. Treat's pier in relation to property line.

Summarize Treat Property Violations

(1) **Driveway:** The currents driveway as shown is too large and was constructed in the Chesapeake Bay Critical Area zone without proper permits and approvals.

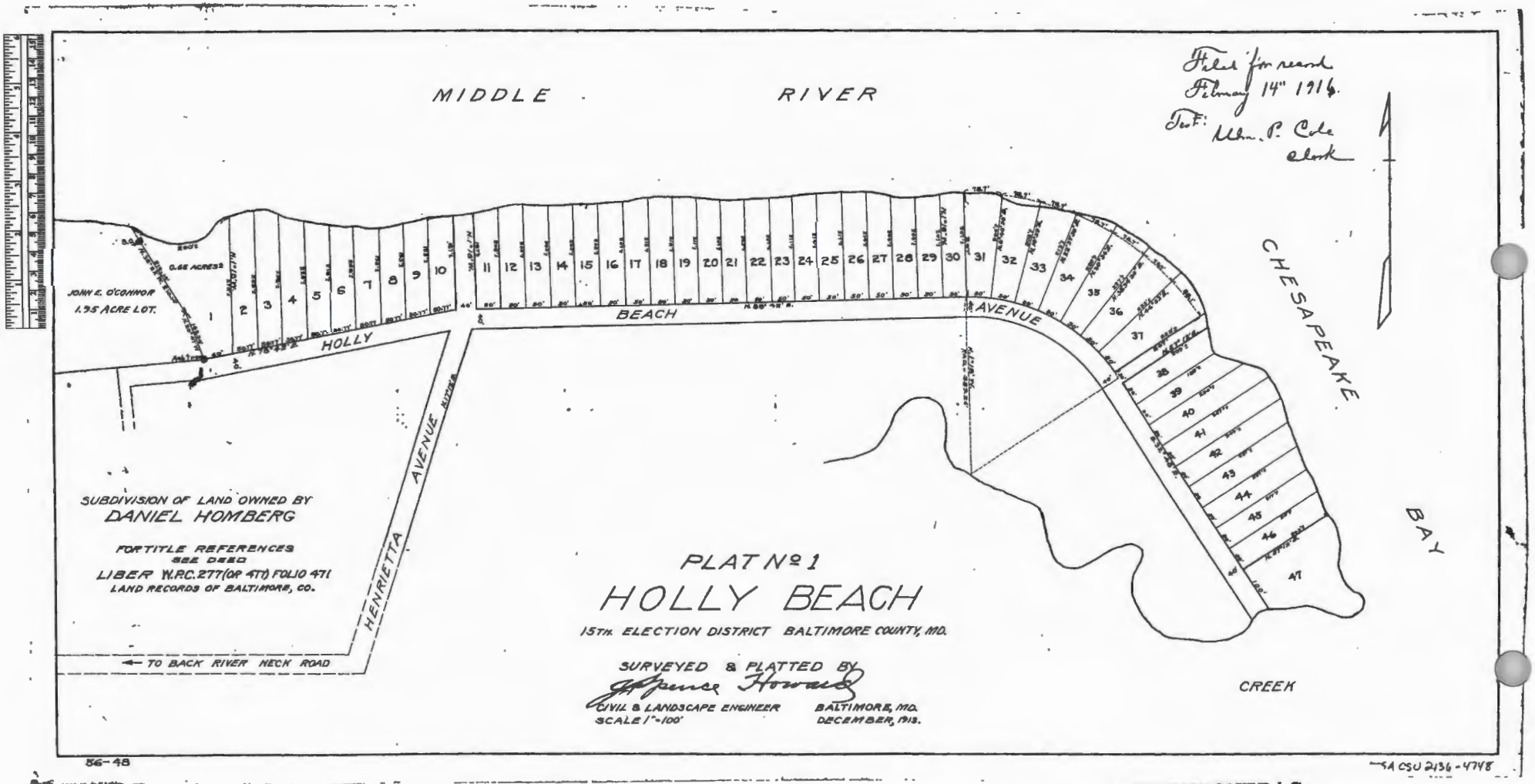
(2) **Pool and Deck:** The existing structures were both installed without permits and inspections.

(3) **Pier:** While permitted, the pier was not installed properly 10 feet off the property line.

As a result of the infractions/violations on Ms. Treat's property she should not be allowed to go forward with her proposed work.

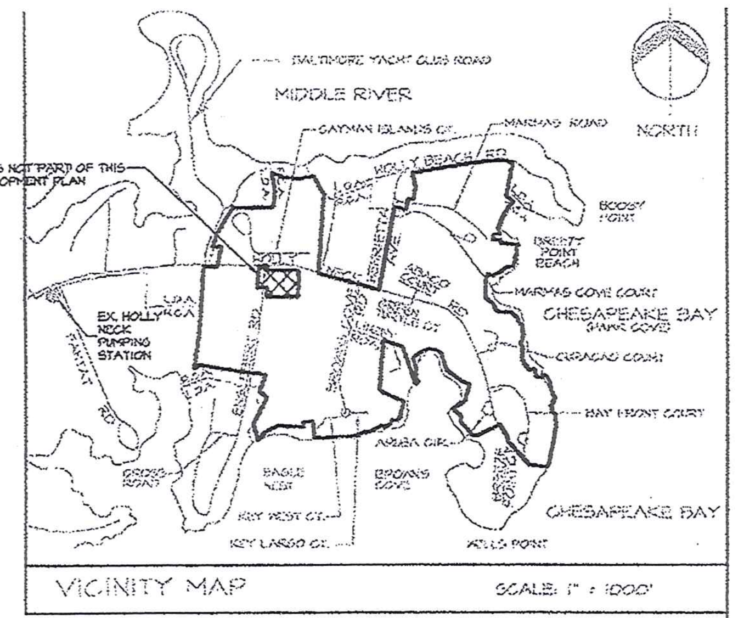
Photo of camera in window taken on 06.16.2009: Shows camera in the window that Ms. Treat denied in court on 06.15.2009 was even there. This camera is still in place today.

View of second camera pointed at my house: Camera currently pointed at my 16 year old daughter's bedroom window.

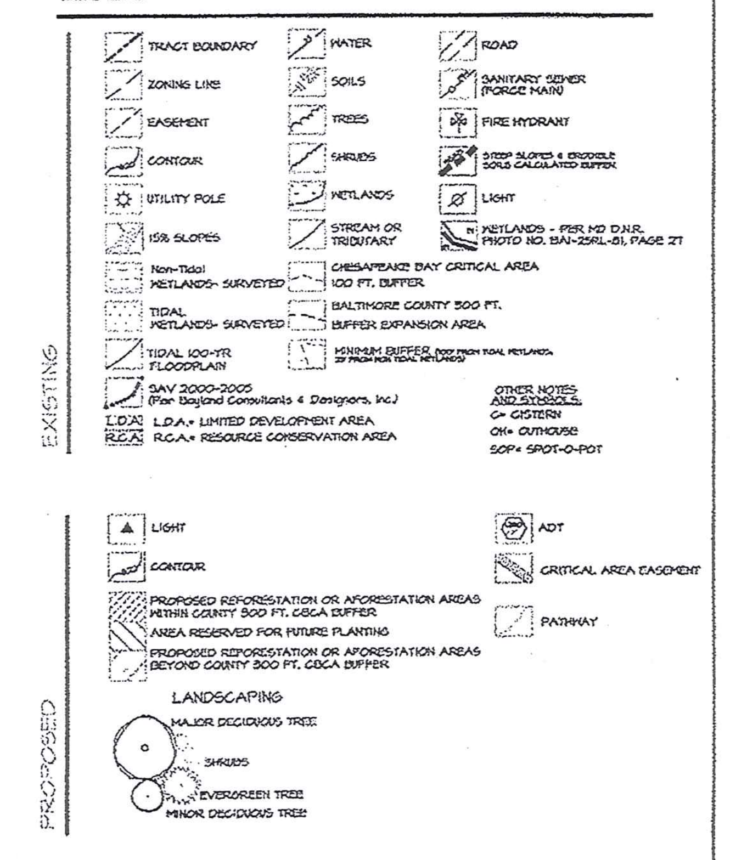


PETITIONER'S

EXHIBIT NO. 4



LEGEND



NOTES:
1. SEE SHEETS 3-5 [illegible] TILITIES.
2. AREAS NOT LABEL[illegible] OTHERWISE ARE HOA COMMON AREA.
3. 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.
4. There shall be no clearing, grading, construction or disturbances of vegetation in the Critical Area Easement except [illegible]ermitted by Baltimore County Department of En[illegible]ental Protection and Resource Management.

THE PRESERVE AT HOLLY NECK
FINAL DEVELOPMENT PLAN

FINAL DEVELOPMENT PLAN APPROVAL

DIRECTOR OF FDM DATE

JUN 1 2008

DIRECTOR OF OFCC DATE

D.S. THALER & ASSOC., INC.
CIVIL ENGINEERS SURVEYORS
LANDSCAPE ARCHITECTS LAND PLANNERS
7115 AMBASSADOR ROAD
P.O. BOX 47428
BALTIMORE, MARYLAND 21244-7428
(410) 944-ENGR, (410) 944-3647

THE PRESERVE AT HOLLY NECK
FINAL DEVELOPMENT PLAN
PROJECT MANAGER: CHRISTINE K. RORKE
REGIONAL PLANNING DISTRICT: 328
COUNCILMANIC DIST.: 6
ELECTION DIST.: 15
FDM NUMBER: XV-821
CIM: 2.15.05 & 3.10.05
PLANNING BOARD MEETING: 5.19.05; 6.16.05; 7.7.05; 1.19.06; 2.2.06
BOARD OF APPEALS: 2.9.06

REVISIONS:

APPLICANT:
HOLLY NECK LIMITED PARTNERSHIP LLLP
10100 COASTAL HIGHWAY
OCEAN CITY, MARYLAND 21842
ATTENTION: LEONARD P. BERGER
PHONE: (410) 524 - 3535

MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
1220-C EAST JOPPA ROAD, SUITE 505
TOWSON, MARYLAND 21286
(410) 821-1690
FAX: (410) 821-1748
MRAGTA.COM

THIS FINAL DEVELOPMENT PLAN IS SEALED AND CERTIFIED AS BEING IN CONFORMANCE WITH THE APPROVED 1st REFINED DEVELOPMENT PLAN DATED 6/3/2008

STATE OF MARYLAND ... PROFESSIONAL ENGINEER No. 14018

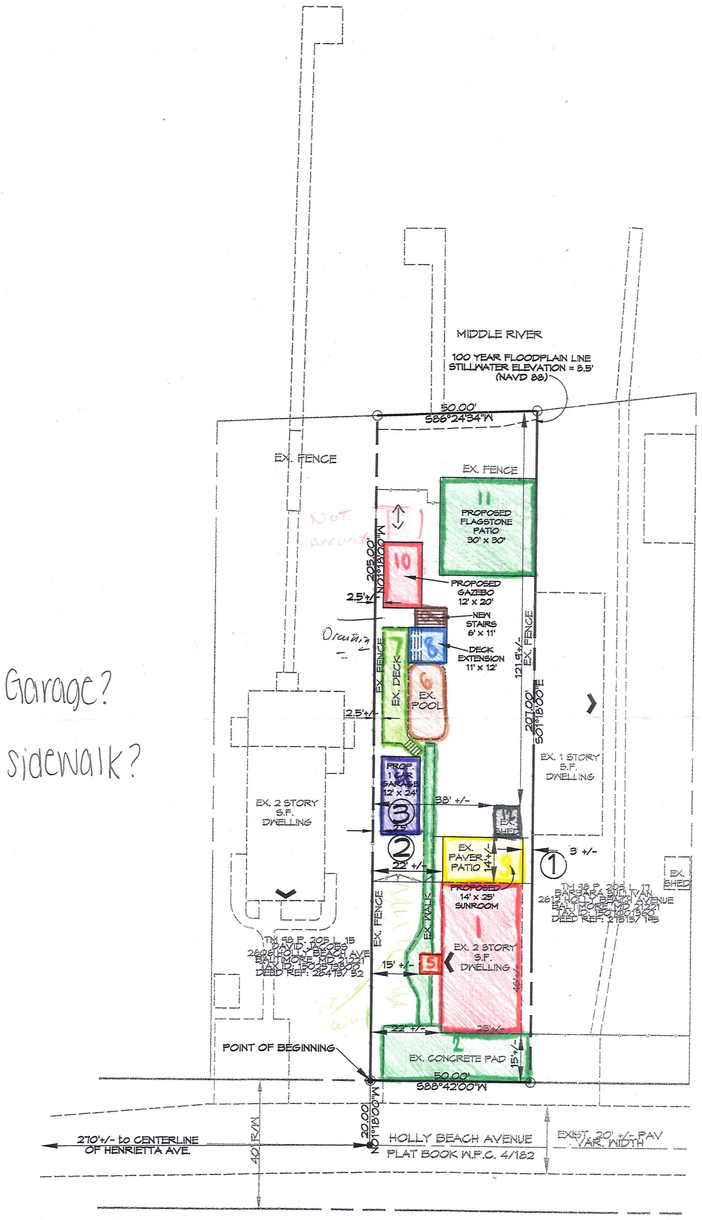
0' 50' 100' 200'
SCALE: 1"=100'

DATE
SCALE
C.I.: 2'
PROJ.
SHEET

PETITIONER'S EXHIBIT 9

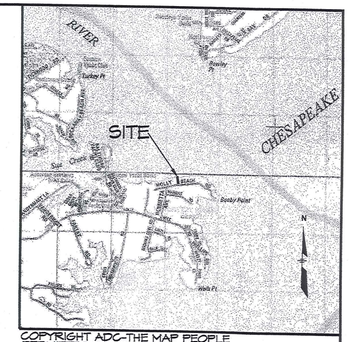
THE PRESERVE AT HOLLY NECK
FINAL DEVELOPMENT PLAN

Notes:
1. No Driveway to enter Garage?
2. Proposed Sunroom
Will there be steps and sidewalk?



1. House 1,150 SF
2. Driveways and sidewalks 1,353 SF
3. sunroom 350 SF
4. Garage 288 SF
5. Porch 36 SF
6. Pool 288 SF
7. Deck 280 SF
8. Deck Extension 132 SF
9. New stairs 66 SF
10. proposed Gazebo 240 SF
11. Proposed flagstone patio 900 SF
12. Existing shed 48 SF

Total SF 5,131



LOCATION MAP

1. OWNER: KAREN TREAT & ALVERTA TUTCHTON
2610 HOLLY BEACH ROAD
BALTIMORE, MD 21221
2. ENGINEER: MARTIN & PHILLIPS DESIGN ASSOCIATES, INC.
222 BOSLEY AVENUE, SUITE B1
TOWSON, MD 21204
410-321-8444
3. TAX MAP: 98
4. PARCEL NUMBER: 205, LOT 16
5. TOTAL TRACT AREA: 0.24 AC.+/- OR 10,300 S.F.+/-
6. TAX ID: 1502573801
7. DEED REFERENCE: 14078/ 455
8. ELECTION DISTRICT: 15TH DISTRICT
9. COUNCILMANIC DISTRICT: 6TH DISTRICT
10. CENSUS TRACT: 4510
11. EXISTING ZONING: R.C.-5
12. THERE IS NO KNOWN ZONING HISTORY ON THE SUBJECT PROPERTY.
13. THE SUBJECT PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
14. THE SUBJECT PROPERTY IS LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
15. THERE ARE NO KNOWN HISTORIC AND OR ARCHAEOLOGICAL FEATURES ON THE SUBJECT PROPERTY.
16. THERE ARE NO KNOWN WELLS, SEWAGE DISPOSAL SYSTEMS, OR UNDERGROUND FUEL OR CHEMICAL STORAGE TANKS ON OR WITHIN 100 FEET OF THE DEVELOPMENT SITE.

Actual Driveway Dimension
(47 x 22)

Zoning Relief Requests:
1. TO PERMIT A 3 FOOT SETBACK IN-LIEU-OF 50 FEET FROM ANY LOT LINE PER SECTION 1A04.3.B.2.b, BCZR
2. TO PERMIT A 22 FOOT SETBACK IN LIEU-OF 50 FEET FROM ANY LOT LINE PER SECTION 1A04.3.B.2.b., BCZR
3. TO PERMIT A GARAGE IN THE ~~SIDEYARD~~ FRONT YARD IN LIEU-OF THE REAR PER SECTION 400.1., BCZR
4. TO PERMIT 21% LOT COVERAGE IN-LIEU-OF 15% PER SECTION 1A04.3.B.3, BCZR

N
NAVD 88-MSC 1988
SCALE: 1"=20'
20 10 0 20 40 60

MARTIN & PHILLIPS
DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1
TOWSON, MARYLAND 21204
TELE:(410)321-8444/FAX:(410)321-1175

STATE OF MARYLAND — DAVID LLOYD MARTIN — No. 7775 — LANDSCAPE ARCHITECT

PROTESTANT'S
EXHIBIT NO. 3

A PLAN TO ACCOMPANY
A VARIANCE

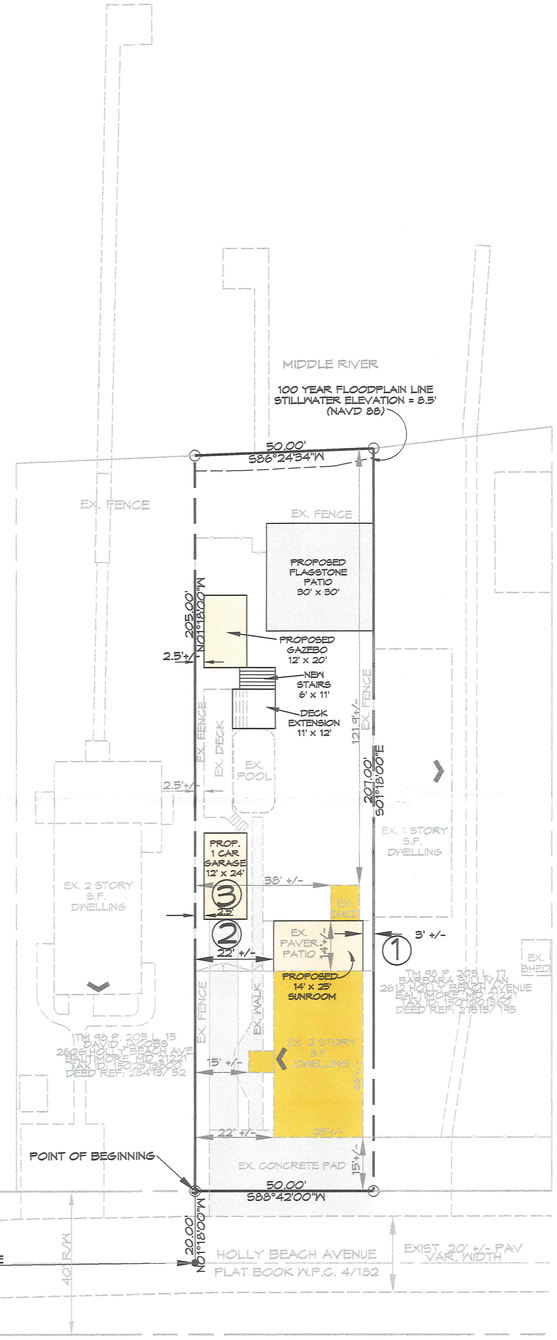
2610 HOLLY BEACH ROAD

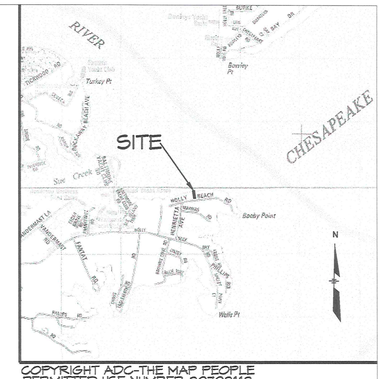
OWNER:
KAREN TREAT
& ALVERTA TUTCHTON
2610 HOLLY BEACH ROAD
BALTIMORE, MD 21221

2010-0153-A

OCTOBER 22, 2009

FILENAME: 09-1087zoninghearing.s01 Hearing





LOCATION MAP

EXISTING BUILDINGS

PROPOSED BUILDINGS

ACCESSORY USE GAZEBO

EXISTING & PROPOSED WALKS DRIVES & PATIOS

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N
NAVD 88-MSC 1988

SCALE: 1"=20'
20 10 0 20 40 60

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TOWSON, MARYLAND 21204
TELE:(410)321-8444/FAX:(410)321-1175

BUILDING & IMPERVIOUS SURFACE COVERAGE

2610 HOLLY BEACH ROAD

OWNER:
KAREN TREAT
& ALVERTA TUTCHTON
2610 HOLLY BEACH ROAD
BALTIMORE, MD 21221

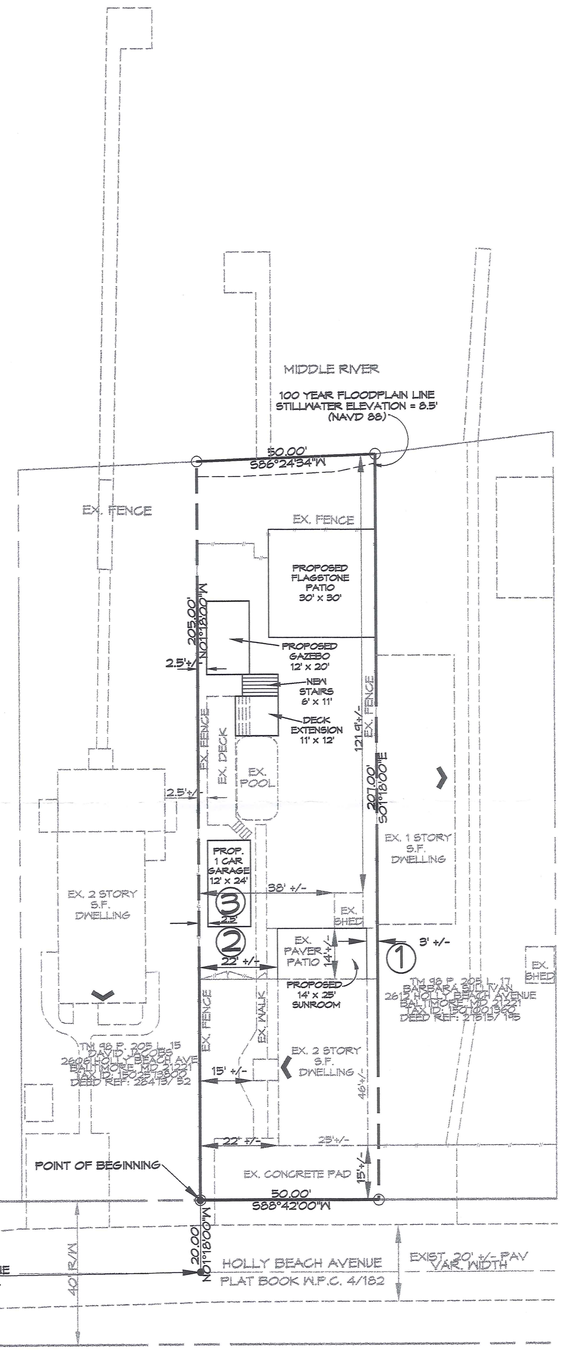
OCTOBER 22, 2009

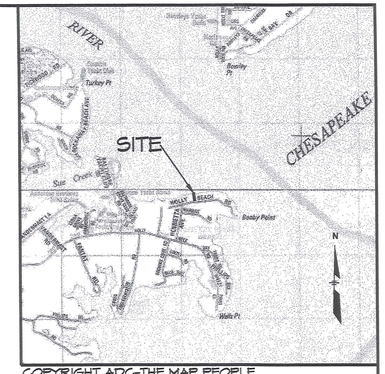
P.N. 09-1087

PETITIONER'S EXHIBIT 2

FILENAME: 09-1087zoninghearing.s01, Hearing

09_1087zoninghearing.s01 12/22/2009 2:56:15 PM David Martin SCALE 1.0000 " / in.





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PERMITTED USE NUMBER 20102112

LOCATION MAP

1.	OWNER:	KAREN TREAT & ALVERTA TUTCHTON
		2610 HOLLY BEACH ROAD
		BALTIMORE, MD 21221
2.	ENGINEER:	MARTIN & PHILLIPS DESIGN ASSOCIATES, INC.
		222 BOSLEY AVENUE, SUITE B1
		TOWSON, MD 21204
		410-321-8444
3.	TAX MAP:	98
4.	PARCEL NUMBER:	205, LOT 16
5.	TOTAL TRACT AREA:	0.24 AC.+/- OR 10,300 S.F.+/-
6.	TAX ID:	1502573801
7.	DEED REFERENCE:	14078/ 455
8.	ELECTION DISTRICT:	15TH DISTRICT
9.	COUNCILMANIC DISTRICT:	6TH DISTRICT
10.	CENSUS TRACT:	4510
11.	EXISTING ZONING:	R.C.-5

12. THERE IS NO KNOWN ZONING HISTORY ON THE SUBJECT PROPERTY.
13. THE SUBJECT PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
14. THE SUBJECT PROPERTY IS LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
15. THERE ARE NO KNOWN HISTORIC AND OR ARCHAEOLOGICAL FEATURES ON THE SUBJECT PROPERTY.
16. THERE ARE NO KNOWN WELLS, SEWAGE DISPOSAL SYSTEMS, OR UNDERGROUND FUEL OR CHEMICAL STORAGE TANKS ON OR WITHIN 100 FEET OF THE DEVELOPMENT SITE.

Zoning Relief Requests:
1. TO PERMIT A 3 FOOT SETBACK IN-LIEU-OF 50 FEET FROM ANY LOT LINE PER SECTION 1A04.3.B.2.b, BCZR
2. TO PERMIT A 22 FOOT SETBACK IN LIEU-OF 50 FEET FROM ANY LOT LINE PER SECTION 1A04.3.B.2.b., BCZR
3. TO PERMIT A GARAGE IN THE SIDEYARD IN LIEU-OF THE REAR PER SECTION 400.1., BCZR
4. TO PERMIT 21% LOT COVERAGE IN-LIEU-OF 15% PER SECTION 1A04.3.B.3, BCZR

N
NAVD 88-MSC 1988
SCALE: 1"=20'
20 10 0 20 40 60

PETITIONER'S
EXHIBIT NO. 1

A PLAN TO ACCOMPANY
A VARIANCE

2610 HOLLY BEACH ROAD

OWNER:
KAREN TREAT
& ALVERTA TUTCHTON
2610 HOLLY BEACH ROAD
BALTIMORE, MD 21221

2010-0152-A

OCTOBER 22, 2009

P.N. 09-1087

MARTIN & PHILLIPS
DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1
TOWSON, MARYLAND 21204
TELE:(410)321-8444/FAX:(410)321-1175

STATE OF MARYLAND
DAVID LLOYD MARTIN
21715
LANDSCAPE ARCHITECT

FILENAME: 09-1087zoninghearing.s01, Hearing