

IN RE: **PETITION FOR VARIANCE**
(2022 Sue Creek Drive)
15th Election District
6th Councilmanic District

Richard J. and Donna L. Schissler
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2010-0295-A**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for Baltimore County as a Petition for Variance filed by the legal owner of the subject property, Richard J. and Donna L. Schissler. As filed, the Petitioners requested a variance from Section 417.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a setback of 5 feet and an encroachment of 15 feet over the established divisional property line and an open access strip of 15 feet and 18 feet between a facility of adjoining property owners in lieu of the required 10 feet, 10 feet, 20 feet and 20 feet respectively for a new pier. That Petition was filed on or about April 28, 2010 by David Billingsley, on behalf of the Petitioners. Former Zoning Commissioner Wiseman held a hearing on the Petition, but a ruling was never issued and the parties attempted to amicably resolve the case.

That did not occur, and the Petitioners hired Mr. Schmidt and William Bafitis, Professional Engineer, who prepared and submitted a revised plan (Exhibit 1). At the hearing on the amended plan, counsel argued variance relief was not required, given that the proposed floating pier would not extend beyond the "mean low tide" mark, rendering B.C.Z.R. § 417 inapplicable.

Appearing at the hearing in support of the request were Richard and Donna Schissler, property owners, and William Bafitis, P.E., of Bafitis & Associates, Inc, the

ORDER RECEIVED FOR FILING

Date 1-10-13

By Sen

consultant who prepared the site plan(s). Lawrence E. Schmidt, Esquire appeared as counsel and represented the Petitioners. John and Mary Schaefer and Paul and Mary McMullen the adjacent property owners and neighbors attended the hearing and indicated they opposed the relief sought by the Petitioners.

Testimony and evidence offered at the hearing revealed that the property is 14,252 square feet and is zoned DR 3.5. The Petitioners have lived at the property since 1996, and had a floating pier in place when they purchased their home. As a result of recent storms the pier was destroyed, and Petitioners now seek to replace the pier.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The only substantive comment was from Department of Environmental Protection and Sustainability (DEPS), which indicated Petitioners must comply with certain Critical Area regulations as set forth in B.C.Z.R. § 500.14

Section 417 of the B.C.Z.R. contains regulations concerning "waterfront construction." Those regulations are applicable only when the construction will extend "into navigable waters beyond mean low tide." B.C.Z.R. § 417.1 Thus, the crucial issue in any such case involves the location of the "mean low tide" mark. The term is not defined in the B.C.Z.R., but is widely acknowledged to refer to "the average of all low tides-both low and lower low- over a fixed period." Black's Law Dictionary 1619 (9th ed. 2009).

Mr. Bafitis, an engineer who was accepted as an expert, testified he prepared the amended site plan (Exhibit 1) and noted thereon with dashed lines the mean low water elevation, using NAVD 88 datum. Baltimore County regulations specify that NAVD 88 (North American Vertical Datum of 1988) must be used in preparing vertical survey measurements (in this case, the "mean low tide" elevation). Baltimore County Design

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By Sen

Manual, p. 3-2. And courts have recognized that licensed surveyors and engineers are qualified to "determine the line of mean low tide." Seaway Co. v. Attorney General, 375 S.W. 2d 923 (Tex. 1964).

I am persuaded by and credit Mr. Bafitis' testimony concerning the mean low tide elevation, which I believe is a determination that must be made by an expert witness. See Spillane v. Adams, 922 N.E. 2d 803, 812 (Mass. 2010). Mr. Bafitis testified he performed an onsite survey in the water before making the mean low tide determination, and he opined B.C.Z.R. § 417 is inapplicable, since (as shown on the plan) the proposed pier (which Mr. Schissler testified is "similar to what was there before") does not extend beyond the mean low water mark.

Neighbor Mary McMullen questioned Mr. Bafitis about a prior case (06-365-SPH) in which he testified that the "mean low tide" elevation in a nearby cove was the shoreline itself. Mr. Bafitis explained that the mean low water mark will vary depending on the location at issue, and while the record was not clear as to the precise location of the property in that earlier case, Mr. Bafitis testified that there are occasions where the shoreline will be the mean low water mark, but that was not the case with the Petitioners property.

In summary, I believe it was incumbent upon the protestants to present expert testimony in opposition to that provided by Mr. Bafitis. Having failed to do so, and finding Mr. Bafitis to be a credible and articulate witness, I am persuaded that his determination of the low water mark is correct.

THEREFORE IT IS ORDERED by the Administrative Law Judge for Baltimore County this 10th day of January 2013, that the Petition for Variance seeking relief from

ORDER RECEIVED FOR FILING

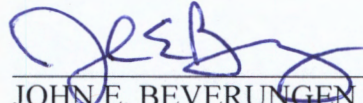
Date. 1-10-13

By Sen

Sections 417.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), be and is hereby,
DISMISSED WITHOUT PREJUDICE.

Any appeal of this decision must be made within thirty (30) days of the date of
this Order.

JEB: sln



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

ORDER RECEIVED FOR FILING

Date 1-10-13

By sln



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

January 10, 2013

Lawrence Schmidt, Esquire
600 Washington Avenue
Suite 200
Towson, Maryland 21204

RE: Petition for Variance
Case No.: 2010-0295-A
Property: 2022 Sue Creek Drive

Dear Mr. Schmidt:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in black ink, appearing to read "JEB", is written over the printed name of John E. Beverungen.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: Richard and Donna Schissler, 2022 Sue Creek Drive, Baltimore, Maryland 21221
William Bafitis, P.E., 1249 Engleberth Road, Baltimore, Maryland 21221
John and Mary Schaefer, 2024 Sue Creek Drive, Baltimore, Maryland 21221
Paul and Mary McMullen, 11 Woody Road, Baltimore, Maryland 21221



Petition for Variance

to the Zoning Commissioner of Baltimore County for the property
located at 2022 SUE CREEK DRIVE
which is presently zoned DR 3.5

Deed Reference: 11681 / 1297 Tax Account # 1900004126

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

SEE ATTACHED

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

TO BE PRESENTED AT HEARING

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.

Legal Owner(s):

RICHARD J. SCHISSLER

Name - Type or Print

Signature

DONNA L. SCHISSLER

Name - Type or Print

Signature

2022 SUE CREEK DRIVE (410) 687-3971

Address

BALTIMORE

MD.

21221

City

State

Zip Code

Representative to be Contacted:

DAVID BILLINGSLEY
CENTRAL DRAFTING AND DESIGN, INC.

Name

601 CHARWOOD COURT (410) 679-8719

Address

EDGEWOOD

MD.

21040

City

State

Zip Code

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Case No. 2010-0295-A

REV 8/20/07

Office Use Only

Estimated Length of Hearing
Unavailable For Hearing

Reviewed by

Date

4/28/10

SECTION 417.4 (BCZR) TO PERMIT A SETBACK OF 5 FEET AND AN ENCROACHMENT OF 15 FEET OVER THE ESTABLISHED DIVISIONAL PROPERTY LINE AND AN OPEN ACCESS STRIP OF 15 FEET AND 18 FEET BETWEEN A FACILITY OF ADJOINING PROPERTY OWNERS IN LIEU OF THE REQUIRED 10 FEET, 10 FEET, 20 FEET AND 20 FEET RESPECTIVELY FOR A NEW PIER

2010-0295-A



Petition for Variance

to the Zoning Commissioner of Baltimore County for the property
located at 2022 SUE CREEK DRIVE
which is presently zoned DR 3.5

Deed Reference: 11681 / 297 Tax Account # 1900004126

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

SEE ATTACHED

? 417.3 - C
B

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

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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.

Legal Owner(s):

RICHARD J. SCHISSLER

Name - Type or Print

Signature

DONNA L. SCHISSLER

Name - Type or Print

Donna L. Schissler

Signature

2022 SUE CREEK DRIVE (410) 687-3971

Address

BALTIMORE

City

MD.

State

Telephone No.

21221

Zip Code

Representative to be Contacted:

DAVID BILLINGSLEY

CENTRAL DRAFTING AND DESIGN, INC.

Name

601 CHARWOOD COURT (410) 679-8719

Address

EDGEWOOD

City

MD.

State

Telephone No.

21040

Zip Code

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Case No. 2010-0295-A

Office Use Only

Estimated Length of Hearing
Unavailable For Hearing

Reviewed by W

Date 4/28/10

SECTION 417.4 (BCZR) TO PERMIT A SETBACK OF 5 FEET AND AN ENCROACHMENT OF 15 FEET OVER THE ESTABLISHED DIVISIONAL PROPERTY LINE AND AN OPEN ACCESS STRIP OF 15 FEET AND 18 FEET BETWEEN A FACILITY OF ADJOINING PROPERTY OWNERS IN LIEU OF THE REQUIRED 10 FEET, 10 FEET, 20 FEET AND 20 FEET RESPECTIVELY FOR A NEW PIER

outside the permitted
blg area in accordance
with Rehm's Exhibit 1

2010-0295-A

ZONING DESCRIPTION

2022 SUE CREEK DRIVE

Beginning at a point on the northeast side of Sue Creek Drive (50 feet wide), distant 368 feet southwesterly from it's intersection with the center of Woody Road (50 feet wide) thence being all of Lot 89 as shown on Plat 3, Sue Creek Landing recorded among the plat records of Baltimore County in plat book 48 folio 8.

Containing 10,200 square feet or 0.234 acre of land, more or less.

Being known as 2022 Sue Creek Drive and located in the 15TH Election District, 6TH Councilmanic District of Baltimore County, Md.

2010-0295-A

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

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

For Newspaper Advertising:

Item Number or Case Number 2010-0295-A

Petitioner: Richard & Donna Schissler

Address or Location: 2022 Sue Creek Drive 21221

PLEASE FORWARD ADVERTISING BILL TO

Name: David Billingsley

Address: Central Drafting and Design Inc

601 Charwood Ct.

Edgewood MD 21040

Telephone Number: 410 679 8719

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

No. 53908

Date: 4/28/10

PAID RECEIPT

BUSINESS ADDRESS 4/27/2010 4/27/2010 09:36:40 2
BUSINESS NAME 7010 REF
BUSINESS PHONE 410-201-0110
BUSINESS FAX
BUSINESS E-MAIL
BUSINESS WEBSITE

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	306	0000		6150				65.00

Total: 65.00

Rec From: Central Drafting & Design Inc

For: Richard J. Schuster
7022 Sue Creek Dr 2010-0295-A
21221

DISTRIBUTION

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

CASHIER'S
VALIDATION

NOTICE OF ZONING HEARING

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

Case: # 2010-0295-A

2022 Sue Creek Drive

N/east side of Sue Creek Drive, 368 feet s/west of centerline of Woody Road

15th Election District - 6th Councilmanic District

Legal Owner(s): Richard & Donna Schissler

Variance: to permit a setback of 5 feet and an encroachment of 15 feet over the established divisional property line and an open access strip of 15 feet and 18 feet between a facility of adjoining property owners in lieu of the required 10 feet, 10 feet, 20 feet and 20 feet respectively for a new pier.

Hearing: Tuesday, June 29, 2010 at 9:00 a.m. in Room 104, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For Information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

17/6/785 June 15

244090

CERTIFICATE OF PUBLICATION

6/17/, 2010

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 6/15/, 2010.

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

J. Wilkinson

LEGAL ADVERTISING

1-4
10Am

CERTIFICATE OF POSTING

2010-0295-A

RE: Case No.: _____

Petitioner/Developer: _____

Richard & Donna Schissler

January 4, 2013

Date of Hearing/Closing: _____

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

Attn: Kristen Lewis:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

2022 Sue Creek Dr

December 13, 2012

The sign(s) were posted on _____
(Month, Day, Year)

Sincerely,

December 13, 2012

(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)



CERTIFICATE OF POSTING

RE: Case No 2010-0295-A

Petitioner/Developer DAVE
BILLINGSLEY

Date Of Hearing/Closing: 6/29/10

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

Attention:

Ladies and Gentlemen

This letter is to certify under penalties of perjury that the necessary
sign(s) required by law were posted conspicuously on the property
at 2022 SUE CREEK DRIVE

This sign(s) were posted on June 14, 2010

Month, Day, Year

Sincerely,

Martin Ogle 6/14/10
Signature of Sign Poster and Date

Martin Ogle
60 Chelmsford Court
Baltimore, Md, 21220
443-629-3411

ZONING NOTICE

CASE # 2010-0295-A

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

ROOM 104 JEFFERSON BUILDING 105

PLACE: WESTCHESAPEAKE AVENUE, TOWSON 21206

DATE AND TIME: TUESDAY JUNE 29, 2010

AT 9:00 A.M.

REQUEST: VARIANCE TO PERMIT A SETBACK OF 5 FEET
AND AN ENCROACHMENT OF 15 FEET OVER THE
THE ESTABLISHED DIVISIONAL PROPERTY LINE AND AN OPEN
ACCESS STRIP OF 15 FEET AND 10 FEET BETWEEN A FACILITY
OF ADJOINING PROPERTY OWNERS IN LIEU OF THE REQUIRED
10 FEET, 10 FEET, 20 FEET AND 20 FEET RESPECTIVELY
FOR A NEW PIER

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY
TO CONFIRM HEARING CALL 887-3391

DO NOT REMOVE THIS SIGN AND POST SIGN



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

December 6, 2012

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: 2010-0295-A

2022 Sue Creek Drive

N/east side of Sue Creek Drive, 368 feet s/west of centerline of Woody Road

15th Election District – 6th Councilmanic District

Legal Owners: Richard & Donna Schissler

Variance to permit a setback of 5 feet and an encroachment of 15 feet over the established divisional property line and an open access strip of 15 feet and 18 feet between a facility of adjoining property owners in lieu of the required 10 feet, 10 feet, 20 feet and 20 feet respectively for a new pier.

Hearing: Friday, January 4, 2013 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

C: Mr. & Mrs. Schissler, 2022 Sue Creek Dr., Baltimore 21221
Lawrence Schmidt, 600 Washington Avenue, Ste. 200, Towson 21204
David Billingsley, 601 Charwood Court, Edgewood 21040

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, DECEMBER 15, 2012.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, June 15, 2010 Issue - Jeffersonian

Please forward billing to:

David Billingsley
Central Drafting & Design, Inc.
601 Charwood Court
Edgewood, MD 21040

410-679-8719

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: 2010-0295-A

2022 Sue Creek Drive

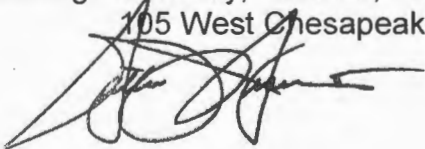
N/east side of Sue Creek Drive, 368 feet s/west of centerline of Woody Road

15th Election District – 6th Councilmanic District

Legal Owners: Richard & Donna Schissler

Variance to permit a setback of 5 feet and an encroachment of 15 feet over the established divisional property line and an open access strip of 15 feet and 18 feet between a facility of adjoining property owners in lieu of the required 10 feet, 10 feet, 20 feet and 20 feet respectively for a new pier.

Hearing: Tuesday, June 29, 2010 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, Director
Department of Permits and
Development Management
May 27, 2010

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: 2010-0295-A

2022 Sue Creek Drive

N/east side of Sue Creek Drive, 368 feet s/west of centerline of Woody Road

15th Election District – 6th Councilmanic District

Legal Owners: Richard & Donna Schissler

Variance to permit a setback of 5 feet and an encroachment of 15 feet over the established divisional property line and an open access strip of 15 feet and 18 feet between a facility of adjoining property owners in lieu of the required 10 feet, 10 feet, 20 feet and 20 feet respectively for a new pier.

Hearing: Tuesday, June 29, 2010 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:kl

C: Mr. & Mrs. Schissler, 2022 Sue Creek Dr., Baltimore 21221
David Billingsley, Central Drafting & Design, 601 Charwood Ct. Edgewood 21040

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JUNE 14, 2010.**
- (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.



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

December 28, 2012

Richard J. Donna Schissler
2022 Sue Creek Drive
Baltimore MD 21221

RE: Case Number: 2010-0295 A, Address: 2022 Sue Creek Drive

Dear Mr. & Ms. Schlisser:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on April 28, 2010. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

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

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaf

Enclosures

c: People's Counsel
David Billingsly, Central Drafting and Design Inc., 601 Charwood Court, Edgewood MD 21040



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

State Highway
Administration

Darrell B. Mobley, Acting Secretary
Melinda B. Peters, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 11-19-12

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

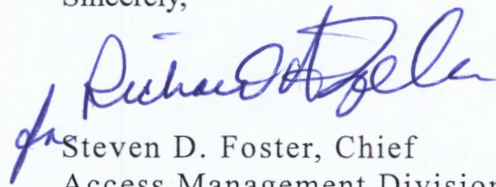
RE: Baltimore County
Item No 2010-0295-A- Revised -
#2022 Sue Creek Drive

Dear Ms. Lewis:

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. 2010-0295-A.

Should you have any questions regarding this matter, please contact Richard Zeller at 410-545-5598 or 1-800-876-4742 extension 5598. Also, you may E-mail him at (rzeller@sha.state.md.us).

Sincerely,


Steven D. Foster, Chief
Access Management Division

SDF/raz

My telephone number/toll-free number is _____

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

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.roads.maryland.gov

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: November 21, 2012

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

SUBJECT: Zoning Advisory Committee Meeting
For December 3, 2012
Item Nos. 2010-0295, 2013-0107, 0108,
0109, 0110, 0111 and 0112

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

DAK:CEN
cc: File

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

JAN 03 2013



OFFICE OF ADMINISTRATIVE HEARINGS

TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: David Lykens, Department of Environmental Protection and Sustainability
(DEPS) - Development Coordination

DATE: January 3, 2013

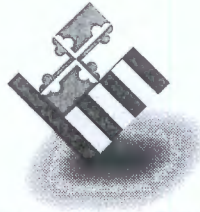
SUBJECT: DEPS Comment for Zoning Item # 2010-0295-A
(comment revised 1/3/13)
Address 2022 Sue Creek Drive
(Schissler Property)

Zoning Advisory Committee Meeting of May 10, 2010.

EPS has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

1. The subject property is located within an Intensely Developed Area (IDA) and is subject to Critical Area requirements. The applicant is proposing to allow a new pier with an encroachment over the divisional property line, less setback, and a reduced open access strip between a facility of adjoining property owners. The lot is waterfront and is developed with a dwelling, pool, and driveway. No development is proposed within the Critical Area buffer. Although historically there has been submerged aquatic vegetation in the creek, adhering to pier width and length limits will minimize impacts to water quality.
2. There are no rare, threatened or endangered species in this location, nor any species in need of conservation, colonial bird nesting habitats, or anadromous fish propagation waters in this location. If pier width and length requirements are met, that will help conserve fish, plant, and wildlife habitat in the Chesapeake Bay.
3. Provided that the applicants meet pier width and length limits and obtain approval from the Maryland Department of the Environment for the pier, the relief requested will be consistent with established land-use policies.

Reviewer: *Regina Esslinger – Environmental Impact Review (EIR)*
Date: January 3, 2012



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

June 22, 2010

Richard & Donna Schissler
2022 Sue Creek Dr.
Baltimore, MD 21221

Dear: Richard & Donna Schissler

RE: Case Number 2010-0295-A, 2022 Sue Creek Dr.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 28, 2010. 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
David Billingsley: Central Drafting and Design, Inc.; 601 Charwood Ct.; Edgewood

Zoning Review | County Office Building

111 West Chesapeake Avenue, Room 111 | Towson, Maryland 21204 | Phone 410-887-3391 | Fax 410-887-3392
www.baltimorecountymd.gov

422 File rec'd
w/ original Carl
Richards ltr. +
copies.
Lashene advised
one to pickup.



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

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

May 27, 2010

ATTENTION: Zoning Review Planners

Distribution Meeting Of: May 17th, 2010

Item Numbers: 0176, 0230, 0295, 0296, 0297, 0298, 0299, 0300, 0301, 0303, 0304, 0306
and 0307-0312

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

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

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

cc: File

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: May 18, 2010

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

SUBJECT: Zoning Advisory Committee Meeting
For May 31, 2010
Item Nos. 2010- 176, 230, 295, 296,
297, 298, 299, 301, 303, 304, 306, 307
311 & 312

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

DAK:CEN:elm

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-05312010 -NO COMMENTS.doc



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

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: MAY 17, 2010

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

RE: Baltimore County
Item No. 2010-0295-A
2022 SUE CREEK DRIVE
SCHIGLER 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. 2010-0295-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,

For ^A Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/mb

My telephone number/toll-free number is _____

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

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.sha.maryland.gov

BW
6-29-10
9 AM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 3, 2010
RECEIVED

JUN 07 2010

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

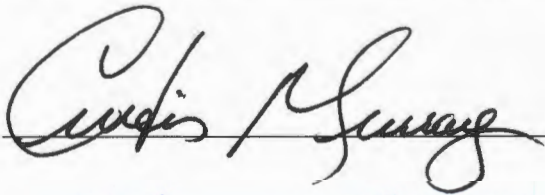
ZONING COMMISSIONER

SUBJECT: Zoning Advisory Petition(s): **Case(s) 10-295- Variance**

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

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

Prepared By:



Division Chief:
CM/LL



BW 6-29-10

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Timothy M. Kotroco
FROM: Dave Lykens, DEPRM - Development Coordination
DATE: June 11, 2010
SUBJECT: Zoning Item # 10-295-A
Address 2022 Sue Creek Drive
(Schissler Property)

Zoning Advisory Committee Meeting of May 17, 2010.

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 proposed pier also requires state and federal review. This requires submittal of a "Joint Federal/State Application for the Alteration of any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland" application. For more information, please contact the Maryland Department of the Environment at 410-537-3837.

Reviewer: Paul Dennis Date: May 24, 2010

RE: PETITION FOR VARIANCE * BEFORE THE
2022 Sue Creek Drive; NE/S Sue Creek *
Drive, 368' SW c/line of Woody Road * ZONING COMMISSIONER
15th Election & 6th Councilmanic Districts *
Legal Owner(s): Richard & Donna Schissler * FOR
Petitioner(s) * BALTIMORE COUNTY
* 10-295-A

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED

MAY 27 2010

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of May, 2010, a copy of the foregoing Entry of Appearance was mailed to David Billingsley, Central Drafting & Design, Inc, 601 Charwood Court, Edgewood, MD 21040, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: File

DATE: December 13, 2010

FROM: William J. Wiseman, III
Zoning Commissioner

SUBJECT: **CASE NUMBER: 2010-0295-A**
NE side of Sue Creek Drive; 368 feet SW of the c/l of Woody Road
(2022 Sue Creek Drive)
15th Election District, 6th Councilmanic District
Richard and Donna Schissler

A hearing was conducted on June 2⁹, 2010 concerning the Petitioners desire for a pier which crossed the divisional lines at 2022 Sue Creek Drive. Following the hearing, a revised site plan was filed due to the concerns of an adjacent neighbor, Mary McMullen, as I was led to believe an agreement had been reached and I dictated a proposed Order. I then learned that the neighbor on the west side, John Schaefer, was not in support of the proposal and I therefore did not issue the drafted Findings of Fact and Conclusions of Law Order. This matter should be reset for further proceedings in the event the Petitioners wish to proceed and/or the adjacent neighbors would need to sign the revised site plan and express in written form their concurrence with the 42-foot pier as reflected on the plan, dated April 12, 2010.

Therefore, I am returning the referenced file to you for housekeeping measures.

WJW:dlw

c: Kristen Lewis, Office of Zoning Review, DPDM

"Draft"

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
NE/S Sue Creek Drive, 368' SW c/line of	*	ZONING COMMISSIONER
Woody Road	*	OF
(2022 Sue Creek Drive)	*	BALTIMORE COUNTY
15 th Election District	*	
6 th Council District	*	
Richard J. Schissler, et ux	*	Case No. 2010-0295-A
<i>Petitioners</i>		

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, Richard J. and Donna L. Schissler. As filed, the Petitioners requested a variance from Section 417.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow a new pier within five (5) feet of the divisional line in lieu of the required ten (10) feet inside the established divisional property line; an encroachment of 15 feet over the established divisional property line in lieu of the required ten (10) feet; and an open access strip between the facilities of adjacent property owners of 15 feet to the south and 18 feet to the northeast in lieu of the required 20 foot open access strip respectively. The subject property, requested relief and division line(s) are more particularly described on the site plan submitted¹, which was accepted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the request were Richard Schissler, property owner, and David Billingsley, of Central Drafting & Design, Inc., the consultant who prepared the site plan(s) and is assisting the Petitioners in the permitting

¹ Petitioners amended their variance request and site plan subsequent to the hearing, without objection, to show open access strips between the facilities (piers) of adjacent property owners of [redacted] feet (south side) and [redacted] feet (northeast side) in lieu of the 20 feet required. Since this relief merely transposed the open access strip distances originally requested (from north to south), they were permitted.

process. Appearing as a concerned adjacent property owner and neighbor to the northeast was Mary L. McMullen of 11 Woody Road. There were no other Protestants or interested persons present at the public hearing.

Testimony and evidence offered disclosed that the subject property is an irregularly shaped waterfront lot having only 24 feet of frontage at the terminus of Sue Creek and then widening to more than 55 feet along Sue Creek Drive, in the Bowley's Quarters/Back River Neck Area in Essex. The property, shown as Lot 89 of the Sue Creek Landing subdivision (Petitioners' Exhibit 4), contains a gross area of 0.234 acres or 10,200 square feet, zoned D.R.3.5 and is improved with a split-foyer frame dwelling built in 1986. The Petitioners have owned and resided on the property since 1996.² Testimony indicated that there formerly was a floating pier located off of the shoreline of the subject property as shown on the site plan and aerial photograph submitted as Petitioners' Exhibit 5. This variance request comes before me as a result of the Schisslers desire to build a 5 foot wide x 55 foot long pier out into the Sue Creek from a narrow strip of land for the benefit of their subject property and to provide a boat mooring. Due to the established divisional property lines and the location of existing piers, the proposed pier necessitates variance relief for setbacks driven by the irregular shoreline resulting in smaller open access strips than required by the Regulations.³

In support of the request, testimony was received from Mr. Billingsley evidencing that the unique configuration of the property and the limited water frontage of the subject and adjacent lots make it impossible to construct a pier that would maintain the required

² Petitioners purchased the subject property from Edwin and Kathleen Lawrence on June 26, 1996 as evidenced by the recorded Deed 11681/297 which was marked and accepted into evidence as Petitioners' Exhibit 3.

³ Divisional lines for properties with irregular shorelines are drawn pursuant to the requirements of Section 417.3.B of the B.C.Z.R. in order to determine the area within which waterfront construction may take place.

20-foot open access strips between the facilities of the adjoining lots and at the same time provide Petitioners with sufficient access to the water. Moreover, the location of the Petitioners pier will not interfere with their neighbors' use and enjoyment of their respective piers or impede access thereto. In this regard, the neighbor on the affected side has no objections to the pier extending over his divisional property line, as evidenced by _____. Moreover, the Petitioners submitted a petition of support for the proposed pier signed by their four (4) most affected neighbors, which was marked and accepted into evidence as Petitioners' Exhibit 6. As shown on the site plan, the neighbors pier to the northeast is approximately 15 ? feet from the Petitioners proposed pier, which limits the extension of the Petitioners pier in that direction.⁴ Petitioners opine that the proposed location for the pier is the most appropriate given the unique configuration of the waterfront property, the divisional property lines that result from the irregular shoreline, and the constraints on the property from existing pier improvements of adjacent neighbors.

Appearing as a concerned neighbor at the hearing, Mary McMullen of 11 Woody Road, whose pier necessitated variance relief in Case No. 06-502-A, expressed reservations in regards to the proposed pier. Specifically, Ms. McMullen was skeptical that the pier as proposed would provide a sufficient open access strip for both her and the Petitioners to each have a boat docked between their common property line. Moreover, Ms. McMullen questioned whether open access strips less than 20 feet were sufficient to accommodate needed dredging equipment. In support of her concerns, Ms. McMullen submitted photographs of the existing conditions in the Sue Creek cove where Petitioners and Ms.

⁴ The pier for the adjacent property to the northeast, 11 Woody Road, was the subject of Case No. 06-502-A, heard by the undersigned Zoning Commissioner, granting variance relief for an 11 foot encroachment of the divisional property line.

McMullen live, which were marked and accepted into evidence collectively as Protestant's Exhibit 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments received from the Office of Planning on June 7, 2010, indicated no opposition to the Petitioners request for relief. Comments were also received from the Department of Environmental Protection and Resource Management (DEPRM) noting that development of the subject property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004). Further it was noted that the proposed pier requires state and federal review and that the submittal of a "Joint Federal/State Application for the Alteration of any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland" application is necessary.

The consideration of a variance request from the zoning regulations is governed by Section 307.1 of the B.C.Z.R. as interpreted by *Cromwell v. Ward*, 102 Md. App. 691 (1995). The two-part variance test involves finding that a property is unique and unusual and that if strict adherence to the regulations were required absent relief, an unreasonable hardship or practical difficulty would result. Self-inflicted or created hardship is not considered proper grounds for a variance.

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested variance. Relief is necessitated given the unique configuration of the property, its narrow frontage on the water, and the location of existing piers in the vicinity. The fact that the frontage of the subject property is curved in a convex configuration along the shoreline which creates an insufficient setback for the proposed pier and renders the subject property unique. This configuration limits the property in this area of the Sue

Creek. Indeed, the Petitioners and his neighbors on the northeast side needed variance relief to have reasonable access to the water. Moreover, the reduction of the shoreline through accretion further aggravates the situation and is more pronounced at the Petitioners property.

I find that strict compliance with the regulations would be unduly burdensome and would result in a practical difficulty and unreasonable hardship for the Petitioners. There were no adverse comments submitted by any County reviewing agency and the neighbor on the most affected side has no objections. Thus, I am persuaded that relief can be granted without detrimental impact to adjacent properties or the surrounding locale.

The concerned neighbors (Mr. and Mrs. McMullen), having had the opportunity to review the amended site plan and proposal and hear the testimony presented, were ...

After due consideration of all the testimony and evidence presented, I am persuaded that relief should be granted. The facts and circumstances justify variance relief. Specifically, I find that the Petitioners have met the requirements of Section 307 of the B.C.Z.R. and that strict compliance with the zoning regulations would prevent the Petitioners from reasonably utilizing and enjoying their waterfront access. I further find that the Petitioners would suffer a practical difficulty and unreasonable hardship if relief were denied. In this regard, I am persuaded that the neighbors on both sides will have the ability to use their piers and boat lifts without any objection because of the staggered nature of the neighboring piers out into the water. This proposal is reasonable in that it permits access to the water by all of the adjacent property owners and limits impacts upon each property owner. There were no adverse ZAC comments submitted by any County reviewing agency and the neighbor who would be most effected by the proposed pier has

no objections. Thus, I am persuaded that relief can be granted without detriment to adjacent properties and in coherence with the spirit and intent of the Regulations.

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

THEREFORE IT IS ORDERED by the Zoning Commissioner for Baltimore County this _____ day of July 2010, that the Petition for Variance seeking relief from Sections 417.3.C and 417.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow a new pier to be constructed outside the permitted building area, in accordance with the amended site plan marked as Petitioners' Exhibit 1, as follows: within five (5) feet of the divisional line in lieu of the required ten (10) feet inside the established divisional property line; an encroachment of 15 feet over the established divisional property line in lieu of the required ten (10) feet; and an open access strip between the facilities of adjacent property owners of 15 ? feet to the south and 18 ? feet to the northeast in lieu of the 20 feet open access strips required, be and is hereby GRANTED, subject to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
2. The Petitioners shall comply with the ZAC comment relative to the Chesapeake Bay Critical Area (CBCA) submitted by DEPRM.
3. When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Any appeal of this Order shall be taken in accordance with Section 32-3-401 of the Baltimore County Code.

WJW:esl

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

Sample

when ready
to proceed

August [REDACTED], 2010

Richard Schissler
Donna Schissler
2022 Sue Creek Drive
Baltimore, Maryland 21221

RE: PETITION FOR VARIANCE

NE Side of Sue Creek Drive, 368' SW of the c/line of Woody Road
(2022 Sue Creek Drive)
15th Election District – 6th Council District
Richard and Donna Schissler – Petitioners
Case No. 2010-0295-A

Dear Mr. and Mrs. Schissler:

This letter is to confirm that the above-captioned matter has been scheduled for further proceedings on (day & date), at _____ A.M., in Room _____ 104, of the Jefferson Building, 105 West Chesapeake Avenue, Towson, Maryland 21204. By copy of this letter, I am informing all parties who appeared and participated at the June 29, 2010 hearing (including the adjacent property owners who have submitted letters [Petitioners' Exhibit 6]), of this new date.

Please do not hesitate in contacting my office if you have any questions

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Attachment

c: David Billingsley, Central Drafting and Design, Inc., 601 Charwood Court,
Edgewood, MD 21040
Paul K. and Mary L. McMullen, 11 Woody Road, Baltimore, MD 21221
Thomas F. Richie, 2026 Sue Creek Drive, Baltimore, MD 21221
John A. Schaefer, 2024 Sue Creek Drive, Baltimore, MD 21221
Jenna Lyon, 9 Woody Road, Baltimore, MD 21221
Harold W. Dorsey, Jr., 15 Woody Road, Baltimore, MD 21221
People's Counsel; DEPRM

Bill Wiseman - Re: Re: Schissler Pier

From: <marymac11@verizon.net>
To: <dwb0209@yahoo.com>
Date: 7/13/2010 4:45 PM
Subject: Re: Re: Schissler Pier
CC: <wwiseman@baltimorecountymd.gov>

Mr. Billingsley,

We have several concerns with the attached site plan. The revised petition leaves just a 10 foot passageway between the Schissler pier and the McMullen pier. As proposed, this worsens, if not eliminates, any hope we have of receiving relief in the form of dredging. See Baltimore County Case No. 08-469-A, John H. Michel petitioner, page 2, with italics added: "The spur, a *standard* twenty (20) feet in width, would not be dredged." We have contacted the Baltimore County Department of Environmental Protection and Resource Management, which oversees dredging projects for confirmation, and await a response. We have also contacted the Maryland Department of Environment for interpretation of state regulations and expect reply in the coming days. Perhaps you could expedite a response from DEPRM and share the information with us.

We are also concerned that a 10 foot passageway would not allow for maintenance of our bulkhead which was installed in 1987 and will require attention at some future point. 16 feet fronting Sue Creek and 25 feet+- on the property line bordering the Schisslers would not be accessible from the water side with only a 10 foot access for equipment.

Our last concern regards the note added to limit the Schisslers use to the south side of their pier. We do not relish the thought of enforcing this request with possible future owners of either property. The only opportunity to effectively render the north side of the proposed pier passageway for 11 Woody owners' sole use would be to install a boatlift attached to the Woody Rd pier which would require a 13 foot passageway and yet another variance for lift support poles.

The pier proposed in the original petition, adjusted to 40 feet in length and turned slightly to the south, would provide the minimum standard 20 feet between piers for dredging equipment. It would allow the Schisslers better access, and give both the Schisslers and McMullens a more realistic chance of having their spurs dredged in the future. That will require divisional line relief from the Schaffers and we cannot speak for them.

We certainly agree that special circumstances exist due to the curvature of the shoreline, limited water frontage and shallow water depth in our cove. The Schisslers need some form of relief from the

divisional line requirements. That being said we feel that a 10 foot passageway between the McMullen and Schissler piers would eliminate any hope of spur dredging, impact our ability to maintain our bulkhead and ultimately negatively impact our property value. As such, we do not approve the petition as amended.

Paul and Mary McMullen

Jul 12, 2010 09:50:28 AM, dwb0209@yahoo.com wrote:

Thanks

Sent from my Verizon Wireless Phone

----- Reply message -----

From: marymac11@verizon.net

Date: Mon, Jul 12, 2010 9:23 am

Subject: Schissler Pier

To:

Hi Dave,

I have received the email. We have been out of town attending a wedding and didn't return until late yesterday. I'll review the plan as soon as I can and get back to you.

Jul 10, 2010 03:48:11 PM, dwb0209@yahoo.com wrote:

Hi Ms. McMullen

Please take a look at this plan and give me a call at your convenience.

Thanks

Dave Billingsley

(410) 679-8719

Sherry Nuffer - 2010-0295-A (CBCA)

From: Sherry Nuffer
To: Livingston, Jeffrey
Subject: 2010-0295-A (CBCA)

Jeff,

The above reference is scheduled to come before our office on Friday January 4, 2013. Are you planning to issue a ZAC comment?

Thank you

1/4 10AM
205**Debra Wiley - Fwd: 2010-0295-A**

From: Debra Wiley
To: Lewis, Kristen
Date: 11/1/2012 2:39 PM
Subject: Fwd: 2010-0295-A
Attachments: 2010-0295-A

Hi Kristen,

Please see attached e-mail which was forwarded to Carl on 10/19; original paperwork was sent via interoffice mail on 10/26. Please be advised that in the meantime our office has received 2 pieces of correspondence from John and Mary Schaefer, adjacent neighbors at 2024 Sue Creek Drive; they have requested notification of hearing once set. Let me know if you need their correspondence.

Per our conversation, I will continue to hold onto all the correspondence until either set for a hearing or requested by you.

Thanks in advance.

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

RECEIVED

NOV 01 2012

October 30, 2012

OFFICE OF ADMINISTRATIVE HEARINGS

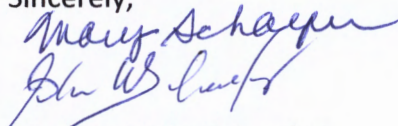
Lawrence E. Schmidt
600 Washington Avenue
Suite 200
Towson MD 21204

We have reviewed the information you sent to the Honorable Lawrence Stahl in regards to your clients Richard and Donna Schissler of 2022 Sue Creek Drive, Baltimore, MD 21221, case 2010-0295-A. We wish to thank you for providing us this information. We would request that you inform us of the date and time of any hearings regarding this appeal, as we were not notified of the original hearing as required by posting of signage on the property, and we fear that this will happen again.

After reviewing the material and drawings we wish to inform you there are several errors in the documents which we intend to present at the hearing.

We thank you in advance of informing us of the date and time of the hearing on this matter.

Sincerely,



Mary and John Schaefer
2024 Sue Creek Drive
Baltimore, MD 21221

CC Honorable Lawrence Stahl ✓
 Mary McMullen

October 30, 2012

Honorable Lawrence M. Stahl
Managing Administrative Law Judge
Office of Administrative Hearing
105 W Chesapeake Avenue
Suite 103
Towson, MD 21204

RECEIVED

NOV 01 2012

OFFICE OF ADMINISTRATIVE HEARINGS

RE : Richard and Donna Schissler
2022 Sue Creek Drive
Baltimore, MD 21221
Case # 2010-0295 -A

You have recently received a letter and drawings from Mr. Lawrence M. Schmidt on behalf of Mr. and Mrs. Schissler at 2022 Sue Creek Drive, Baltimore, MD 21221 Case #2010-0295A.

We want to point out information that may impact on this appeal. These items are:

1. Mr. and Mrs. Schissler did not post the original hearing date in 2010 either on the property or in the paper as required. We fear they will do this again.
2. The original drawing of 2010 was changed to include crossing my extended property line by 16 feet.
3. The current drawings have significant problems some of which are:
 - a) The drawings show a stone bulkhead on my property. This actually is a Corps of Engineering, MDE, Baltimore County approved revetment to stop erosion and protect the wetland and property behind the revetment **and is not a bulkhead.**
 - b) The drawings do not show the extended property lines with the setbacks as shown in the original drawings for the property in Book 48 page 8.
 - c) The drawings do not show the Corps of Engineer, MDE and Baltimore County approved a mooring piling on my property.
 - d) The current location of their pier is not shown property. The pier has broken away from the moorings several times and has floated into the creek during extreme high tides (as in Hurricane Isabel). Currently part of their pier sits on top on my revetment which is on our property. (As they had not the courtesy to remove it for several months now).
 - e) As drawn the pier is located within the 10 foot setback.
 - f) As drawn the angle of the pier crosses over the extended property line.
 - g) As drawn, the mooring of any boat to this pier will negatively impact on our ability to access our property.
 - h) Note # 8 states that there are no wetlands in the area of the pier, there is a wetland consisting of native plants. I spoke to Mr. Thomas Kristen of Baltimore County environmental impact, he stated there is a wetland in the area of the work.

- i) The drawings show a stone wall bulkhead on the Schissler property this impediment to natural flow of storm water was placed by Mr. Schissler without Corps of Engineering, MDE, and Baltimore County approval. In fact Baltimore County, DNR stated to Mr. Schissler that it negatively impacts on the wetlands there. I was present during discussion as I invited them to advise me on manners to protect the wetland and property from erosion. We feel that any enhancement to this impediment will further negatively impact on the nature water flow and the wetlands.
- j) The drawing inaccurately shows our pier coming off my property at an angle of 45 degrees away from the Schissler property. Our pier is set with a 10 degrees angle from the Schissler property. This changes the distance from my pier to the proposed pier from 21 feet as shown on the drawings to maximum of 15 feet.

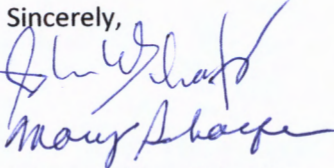
It is not our intent to prevent the Schissler's a pier as they had one in place when we purchased the property and would have no problem with a pier of similar dimensions being placed on the property.

It is evident that the information provided is an effort by the petitioners to influence the court with erroneous information.

Would you please inform us of the date and time of any hearing on this matter.

If you need any further information on this matter please feel free to contact us at 443 955 8477.

Sincerely,



John and Mary Schaefer
2024 Sue Creek Drive
Baltimore, MD 21221

cc Mary McMullen
 11 Woody Road
 Baltimore, MD 21221

From: Debra Wiley
To: Richards, Carl
Date: 10/19/2012 3:31 PM
Subject: 2010-0295-A
Attachments: Message from "zoneprt1"

See me
Carl

Hi Carl,

In reviewing the attached, it appears this is very similar to a recent request from Lawrence Schmidt that ultimately was forwarded to Zoning Review. John Beverungen believes that this should be handled in the same fashion because of possible fees, etc.

What do you think?

Thanks.

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

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN
MICHAEL G. DEHAVEN
RAY M. SHEPARD

LAUREN M. DODRILL
CHARLES B. MAREK, III
NATALIE MAYO
ELYANA TARLOW
JASON T. VETTORI
REBECCA G. WYATT

of counsel:

JAMES T. SMITH, JR.

October 18, 2012

Sent via Regular Mail

Honorable Lawrence M. Stahl
Managing Administrative Law Judge
Office of Administrative Hearings
105 W. Chesapeake Avenue, Suite 103
Towson, MD 21204

**Re: Richard and Donna Schissler
2022 Sue Creek Drive
Case No. 2010-0295-A**

Dear Mr. Stahl:

Kindly be advised that I have been engaged by Richard and Donna Schissler, owners of the property known as 2022 Sue Creek and petitioners in the above matter. In 2010, my clients filed a petition for variance for a proposed pier on the subject property. The Petition was duly advertised, posted and scheduled for a public hearing before the then Zoning Commissioner of Baltimore County, William J. Wiseman III.

At that hearing, my clients appeared and testified, as did their consultant, David Billingsley. Mary L. McMullen, described by Commissioner Wiseman as a "concerned neighbor", also appeared at the hearing. At that time, I did not represent Mr. and Mrs. Schissler and they were not represented by counsel at the hearing. Apparently, after the hearing, Commissioner Wiseman was advised that the Schisslers and Mrs. McMullen had agreed to a revised plan and he prepared a draft order approving the variance and incorporating the revised plan. However, before the order was signed, he received additional advice that another neighbor, John Schaefer, did not support the revised layout.

Commissioner Wiseman recorded these events in a memorandum to the file dated December 13, 2012, a copy of which is attached hereto. His memorandum concludes that "in the event the Petitioners wish to proceed" that the matter should be "reset for further proceedings." As noted above, my clients have engaged me and indeed "wish to proceed" and obtain the zoning authorization necessary for the

Honorable Lawrence M. Stahl

October 18, 2012

Page 2

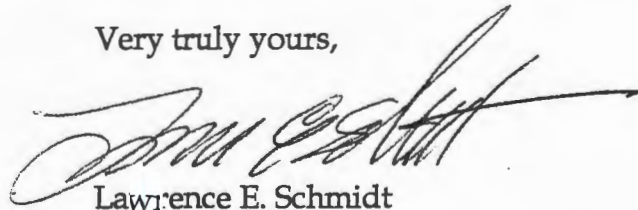
construction of water front improvements to the property. In addition to my engagement, the Petitioners have also engaged the services of William Bafitis, P.E. to prepare a plan reflecting the proposed construction. A copy of Mr. Bafitis' plan is attached hereto.

Under separate cover, I will forward a copy of the plan to Mrs. McMullen, Mr. Schaefer and People's Counsel. I have limited copies of the plan currently but have requested additional copies. I would hereby request that this matter be set for hearing and further proceedings as you deem necessary. If additional copies of the plan are required (for example, for members of the Zoning Advisory Committee), please advise and they will be provided. Additionally, kindly advise as to the requirements insofar as the posting and/or advertising of the continued hearing. I would respectfully suggest that the re-posting of the property is appropriate but that another newspaper advertisement is not required, given that this is a continued hearing.

It should also be noted that the relief as originally requested in the Petition may not be required. Please particularly note that Mr. Bafitis has located the "mean low water" line, which generates the divisional lines (and requisite setbacks therefrom) as described with BCZR Section 417 and Appendix J of the BCZR. He will be prepared to offer expert testimony as to his computations and the relief required (if any) under the BCZR in order for the proposed improvements to be constructed.

Thank you for your cooperation regarding this matter and I await your advice as to the scheduling and processing of this matter.

Very truly yours,



Lawrence E. Schmidt

LES/amf

Enclosures

cc: Richard and Donna Schissler
William Bafitis, P.E.
John Schaefer
Mary McMullen
Kristen Lewis
Peter Zimmerman, Esquire

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN
MICHAEL G. DEHAVEN
RAY M. SHEPARD

LAUREN M. DODRILL
CHARLES B. MAREK, III
NATALIE MAYO
ELYANA TARLOW
JASON T. VETTORI
REBECCA G. WYATT

RECEIVED

OCT 26 2012

of counsel:

JAMES T. SMITH, JR.

OFFICE OF ADMINISTRATIVE HEARINGS

October 23, 2012

Sent via Regular Mail

Mr. John Shaefer
2024 Sue Creek Drive
Baltimore, MD 21221

Mrs. Mary McMullen
11 Woody Road
Baltimore MD 21221

Sent via Regular Mail

Peter M. Zimmerman, Esquire
People's Counsel for Baltimore County
105 W. Chesapeake Avenue
Room 204
Towson, MD 21204

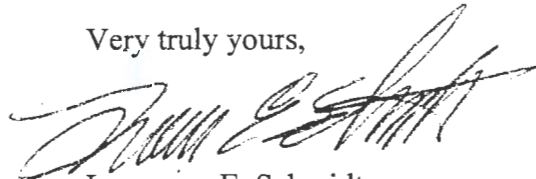
**Re: Richard and Donna Schissler
2022 Sue Creek Drive
Case No. 2010-0295-A**

Dear Mr. Shaefer, Mrs. McMullen and Mr. Zimmerman,

As I advised in my October 18, 2012 letter to the Honorable Lawrence M. Stahl, a copy of which I previously forwarded to you, William Bafitis, P.E. has prepared a plan reflecting the proposed construction to the above referenced property. A copy of Mr. Bafitis' plan is attached hereto.

Please do not hesitate to contact me if you have any questions.

Very truly yours,



Lawrence E. Schmidt

LES/amf

Enclosures

cc: Honorable Lawrence M. Stahl
Richard and Donna Schissler
William Bafitis, P.E.

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN
MICHAEL G. DEHAVEN
RAY M. SHEPARD

LAUREN M. DODRILL
CHARLES B. MAREK, III
NATALIE MAYO
ELYANA TARLOW
JASON T. VETTORI
REBECCA G. WYATT

of counsel:

JAMES T. SMITH, JR.

November 8, 2012

\$ 200.00
12-574

Via Hand-Delivery

W. Carl Richards, Jr.
Department of Permits, Approvals, and Inspections
Zoning Review Supervisor
111 W. Chesapeake Avenue
Towson, MD 21204

**Re: Richard and Donna Schissler
2022 Sue Creek Drive
Case No. 2010-0295-A**

Dear Mr. Richards:

Enclosed please find thirteen (13) copies of the plan with regard to the above matter. I also enclose a check in the amount of \$200.00.

I would hereby request that this matter be set for hearing and further proceedings as you deem necessary. Kindly advise as to the requirements insofar as the posting and/or advertising of the continued hearing. I would respectfully suggest that the re-posting of the property is appropriate but that another newspaper advertisement is not required, given that this is a continued hearing.

Thank you for your assistance regarding this matter.

Very truly yours,

Lawrence E. Schmidt / amf
Lawrence E. Schmidt

LES/amf
Enclosures

cc: Richard and Donna Schissler
William Bafitis, P.E.
Peter Zimmerman, Esquire

Bill Wiseman - Fwd: Re: PIERS

From: Bill Wiseman
To: Lewis, Kristen
Date: 8/2/2010 9:40 AM
Subject: Fwd: Re: PIERS
CC: Wiley, Debra

Good Morning Kristen-

The attached message relates to Case No: **2010-0295-A** - A/K/A - the Pier case [REDACTED]

The file is in my office. If a new date is given to Billingsley please do me a favor and,

- 1) Ask him if the relief requested on the initial Petition is changing;
- 2) Let me know ASAP the new date, time and location as we will have to write letters to the Protestants and effected neighbors giving them notice; and
- 3) Has to be assigned to one of the days I'm hearing cases but not 8/17/10.

*sample letter
file*

Thanks

William J. Wiseman, III
Zoning Commissioner
Jefferson Building, Suite 103
105 West Chesapeake Avenue
Towson MD 21204

Ph: 410-887-3868 Fax: 410-887-3468
wwiseman@baltimorecountymd.gov

BW 6/29/10
9am

CENTRAL DRAFTING AND DESIGN, INC.
601 CHARWOOD COURT
EDGEWOOD, MARYLAND 21040
(410) 679-8719

JULY 26, 2010

MEMO TO: WILLIAM J. WISEMAN, III
ZONING COMMISSIONER

RECEIVED

JUL 26 2010

ZONING COMMISSIONER

RE: 2022 SUE CREEK DRIVE
CASE NO. 2010-0295-A

MR. WISEMAN:

I AM ATTACHING A COPY OF THE REVISED "PLAT TO ACCOMPANY PETITION FOR VARIANCE" FOR THE REFERENCED CASE. I AM ATTEMPTING TO MEET WITH EACH OF ADJACENT PROPERTY OWNERS TO OBTAIN THEIR APPROVAL OF SAME. IF I AM NOT ABLE TO DO SO, WE WILL HAVE TO SET A DATE TO CONTINUE THE HEARING. YOU MAY FEEL MORE COMFORTABLE CONTINUING THE HEARING IN EITHER EVENT. IF SO, PLEASE LET ME KNOW.

THANKS

DAVE BILLINGSLEY

Sherry Nuffer - Re: 2010-0295-A (CBCA)

From: Sherry Nuffer
To: Livingston, Jeffrey
Subject: Re: 2010-0295-A (CBCA)

Ok, thank you.

>>> Jeffrey Livingston 1/2/2013 2:03 PM >>>

I believe that we will. It looks like a comment was issued in June 2010 but it may need to be revised. I'll check with EIR and get back to you prior to Friday.

>>> Sherry Nuffer 1/2/2013 12:10 PM >>>

Jeff,

The above reference is scheduled to come before our office on Friday January 4, 2013. Are you planning to issue a ZAC comment?

Thank you

Sherry Nuffer
Legal Assistant
Office of Administrative Hearings
105 W. Chesapeake Avenue
Room 103
Towson, Maryland 21204
410-887-3868
Fax: 410-877-3468

M E M O R A N D U M

DATE: February 15, 2013
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2010-0295-A - Appeal Period Expired

The appeal period for the above-referenced case expired on February 11, 2013. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: / Case File
Office of Administrative Hearings


Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw1.1d)

[Go Back](#)
[View Map](#)
[New Search](#)
Account Identifier: District - 15 Account Number - 1900004126

Owner Information

Owner Name:	SCHISLER RICHARD J SCHISLER DONNA L	Use:	RESIDENTIAL
Mailing Address:	2022 SUE CREEK DR BALTIMORE MD 21221-1930	Principal Residence:	YES
		Deed Reference:	1) /11681/ 297 2)

Location & Structure Information

Premises Address	Legal Description
2022 SUE CREEK DR	.2341 AC 2022 SUE CREEK DR SUE CREEK LANDING
WATERFRONT	

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:	3
98	20	348					89	3	Plat Ref:	48/ 8

Special Tax Areas	Town Ad Valorem Tax Class
--------------------------	--

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1986	1,137 SF	10,200.00 SF	34
Stories	Basement	Type	Exterior
SPFOY		SPLIT FOYER	FRAME

Value Information

	Base Value	Value	Phase-In Assessments		
		As Of	As Of	As Of	
		01/01/2009	07/01/2009	07/01/2010	
Land	203,570	251,170			
Improvements:	176,590	187,100			
Total:	380,160	438,270	399,530	418,900	
Preferential Land:	0	0	0	0	

Transfer Information

Seller: LAWRENCE EDWIN L	Date: 07/01/1996	Price: \$208,000
Type: MULT ACCTS ARMS-LENGTH	Deed1: /11681/ 297	Deed2:
Seller: STRAIN DAVID C	Date: 01/02/1990	Price: \$139,900
Type: IMPROVED ARMS-LENGTH	Deed1: / 8364/ 536	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	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 *

CASE NAME Schissler
CASE NUMBER 2010-295A
DATE 1/4/2013

[illegible]

CASE NAME Schissler
CASE NUMBER 2010-295A
DATE 1/4/13

[illegible]

CASE NAME 2022 SUE CREEK DR
CASE NUMBER 2010-0295-A
DATE JUNE 29, 2010

CASE NUMBER 2010-0295-A
DATE JUNE 29, 2010

[illegible]

CASE NAME 2022 Sue Creek Dr.
CASE NUMBER 2010-0295-A
DATE June 29, 2010

[illegible]

IN RE: **PETITION FOR VARIANCE**
S/S Woody Road, 341.45' E of the c/l
Sue Creek Road
(11 Woody Road)
15th Election District
6th Council District

Paul K. McMullen, et us
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 06-502-A
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, Paul K. McMullen, and his wife, Mary L. McMullen. The Petitioners request a variance from Section 417.4 of the Baltimore County Zoning Regulations (BCZR) to permit a pier to encroach 11 feet beyond the established divisional property line in lieu of the required 10 feet inside the established divisional property line. The subject property and requested relief are more particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Paul and Mary McMullen, property owners, David Billingsley, the consultant who prepared the site plan for this property, and Bob Infussi, who assisted the Petitioners in the filing process. There were no Protestants or other interested persons present.

Testimony and evidence offered disclosed that the subject property is an irregular shaped waterfront lot located with frontage on Sue Creek and the south side of Woody Road in the Sue Creek Landing community in Essex. The property contains a gross area of 0.2827 acres, more or less, zoned D.R.3.5 and is improved with a single-family dwelling. The Petitioners have owned and resided on the property since July 2003. At the time of their purchase, an existing floating pier extended approximately 28 feet into Sue Creek. Another 22 feet beyond the end of that pier was a mooring pile. Testimony indicated that the existing pier was severely damaged

IN RE: **PETITION FOR VARIANCE**
S/S of Clarks Point Road, 1000' E of
Bowleys Quarters Road
(3735 Clarks Point Road)
15th Election District
6th Council District

John H. Michel, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF
* BALTIMORE COUNTY
* **Case No. 08-469-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, John H. Michel, and his wife, Karen A. Michel. The Petitioners request a variance from Section 417.4 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow three (3) mooring piles to be driven with a setback of 5.5 feet from the established divisional property line in lieu of the required 10 feet to create a boat slip. The request originated in the form of a Petition for Administrative Variance, filed on April 8, 2008, which included the Petition, a notarized Affidavit in Support of Administrative Variance, a zoning description, a zoning/site map, several photographs of the Michel's existing pier, and a March 22, 2008 letter in support of the Michel's request provided by the adjacent/impacted neighbors, August and Rosslee Dixon. The subject property and requested relief are more particularly described on a site drawing that was likewise submitted with the original petition. All of the aforementioned documents form a part of the record and have been accepted into evidence.

Notice of the Petition for Administrative Variance was properly posted. No objections or requests for hearing were received from neighbors or other interested parties. Nonetheless, the administrative variance procedure was superseded by the authority of the Deputy Zoning Commissioner who required a public hearing. The subject property was reposted with notice of the public hearing which occurred on June 6, 2008. Appearing at the hearing in support of the request was John H. Michel, Esquire on behalf of himself and his wife as the

IN THE MATTER OF
THE APPLICATION OF
MURIEL EDWARDS - LEGAL OWNER/
PETITIONER FOR VARIANCE ON
PROPERTY LOCATED ON THE W/S
SUSQUEHANNA; 223 FT S OF C/L CHESTER RD
(1012 SUSQUEHANNA AVENUE)
15TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 09-319-A

* * * * *

ORDER

This matter came before the Board on an appeal from a decision of the Deputy Zoning Commissioner (DZC), in which the DZC granted a variance to install two (2) mooring boatlift piles, set back less than ten (10) feet from the divisional boundary line between 1012 Susquehanna Avenue (Lot 13) and 1016 Susquehanna Avenue (Lot 305) in Bowleys Quarters. Protestants, Thomas and Rosemarie Lehner appealed the decision. The Lehnrs own the property adjacent to the north of Lot 13 on the Plat of Long Beach Estates, namely Lot 12 or 1004 Susquehanna Avenue. A hearing was held before the Board on March 10, 2010 and continued to June 10, 2010, at which time the matter was concluded. The Petitioners were represented by John H. Michel, Esquire. The Protestants were represented by J. Carroll Holzer, Esquire. People's Counsel also participated. Briefs were filed by People's Counsel for Baltimore County and the Petitioners. Mr. Holzer adopted the memorandum of People's Counsel on behalf of the Protestants, Rosemarie and Thomas Lehner. A Public Deliberation was held on August 26, 2010.

Facts

The property is located on the west side of Susquehanna Avenue, west of Bowley's Quarters Road. It has water access to Frog Mortar Creek. The property has an existing dwelling

RE: PETITION FOR ADMINSTRATIVE VARIANCE	*	BEFORE THE COUNTY
1012 Susquehanna Avenue; W/S Susquehanna*		BOARD OF APPEALS
Avenue, 223' S c/line of Chester Road		
15 th Election & 6 th Councilmanic Districts	*	FOR
Legal Owner(s): Muriel Edwards		
Petitioner(s)	*	BALTIMORE COUNTY
	*	09-319-A

* * * * *

MEMORANDUM OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

Statement of the Case

In June, 2009, Muriel Edwards filed a petition for "administrative variance" for construction of a pier and mooring piles at 1012 Susquehanna Avenue bordering Frog Mortar Creek in the Bowleys Quarters area. In our view, variances relating to waterfront construction should be filed as full variances, with a public hearing. Here, Thomas and Rosemarie Lehner of 1004 Susquehanna Avenue requested a public hearing. They were concerned that the proposed pier would hinder the access from their pier into the creek.

Deputy Zoning Commissioner Thomas Bostwick conducted the hearing. He subsequently granted the variance on August 13, 2009. The Lehnars filed a timely appeal. The County Board of Appeals thereupon conducted its *de novo* hearing commencing on March 10, 2010 and concluding on June 17, 2010.

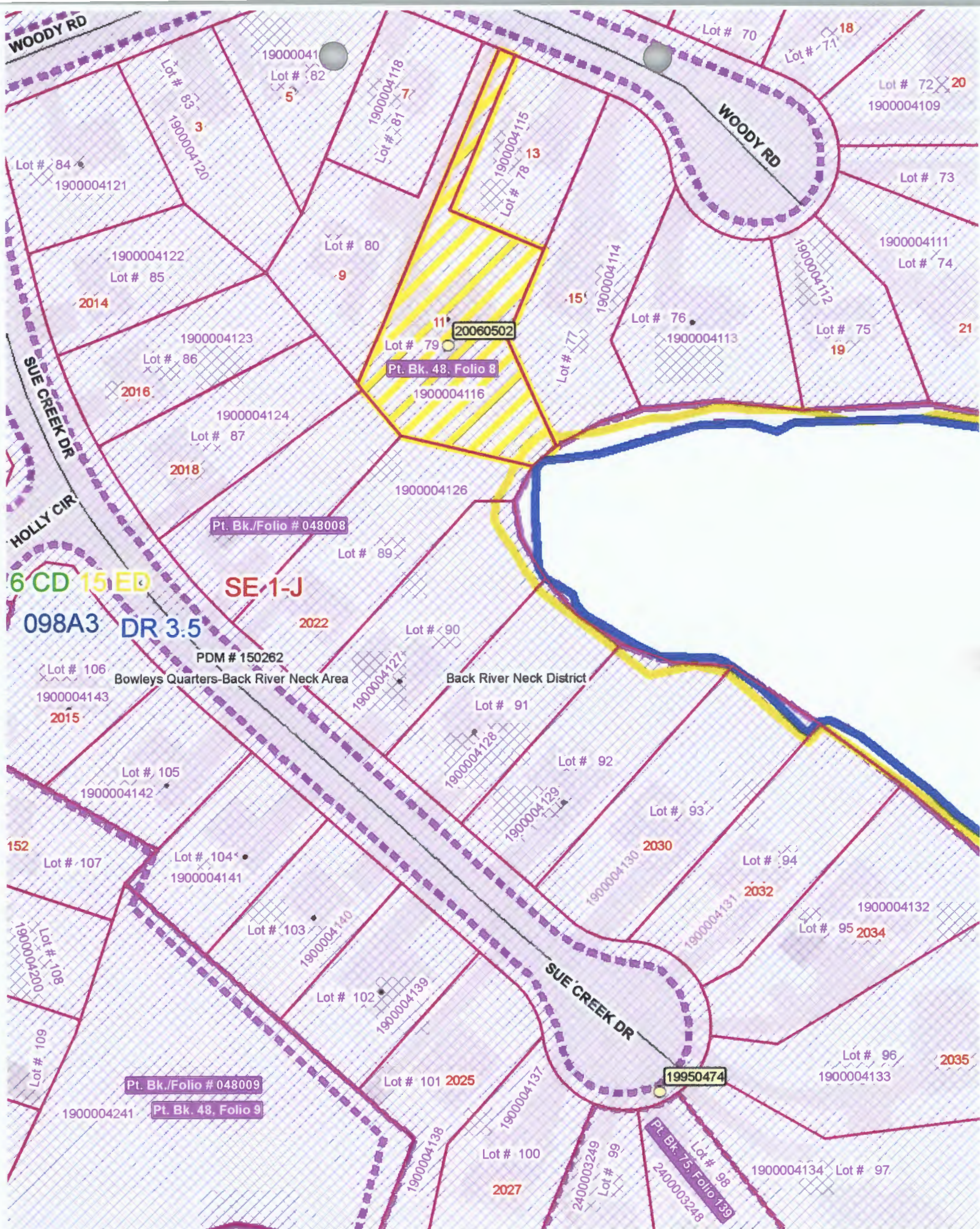
Waterfront Construction: BCZR Section 417

In 1963, the County Council enacted Bill 64 to establish BCZR Section 417 and control waterfront construction "extended into navigable waters below mean low tide." BCZR Section 417.1. There have since been amendments to the law, but none which affect this case.

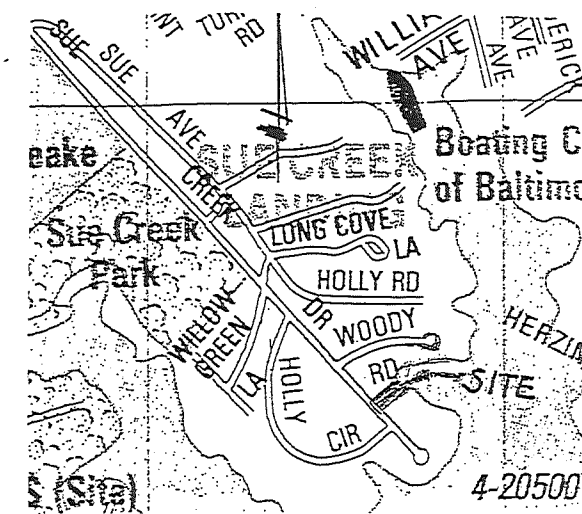
One of the principal purposes of the law is to ensure that waterfront construction does not hinder adequate access to the water for riparian owners. At common law, there was a general rule of equitable access, which could give rise to uncertainty and controversy. See Wicks v. Howard 40 Md. App. 135 (1978).

Bill 64 set up a method to establish "divisional lines" extending out from waterfront properties. BCZR Section 417.3. It delineated methods for drawing such lines

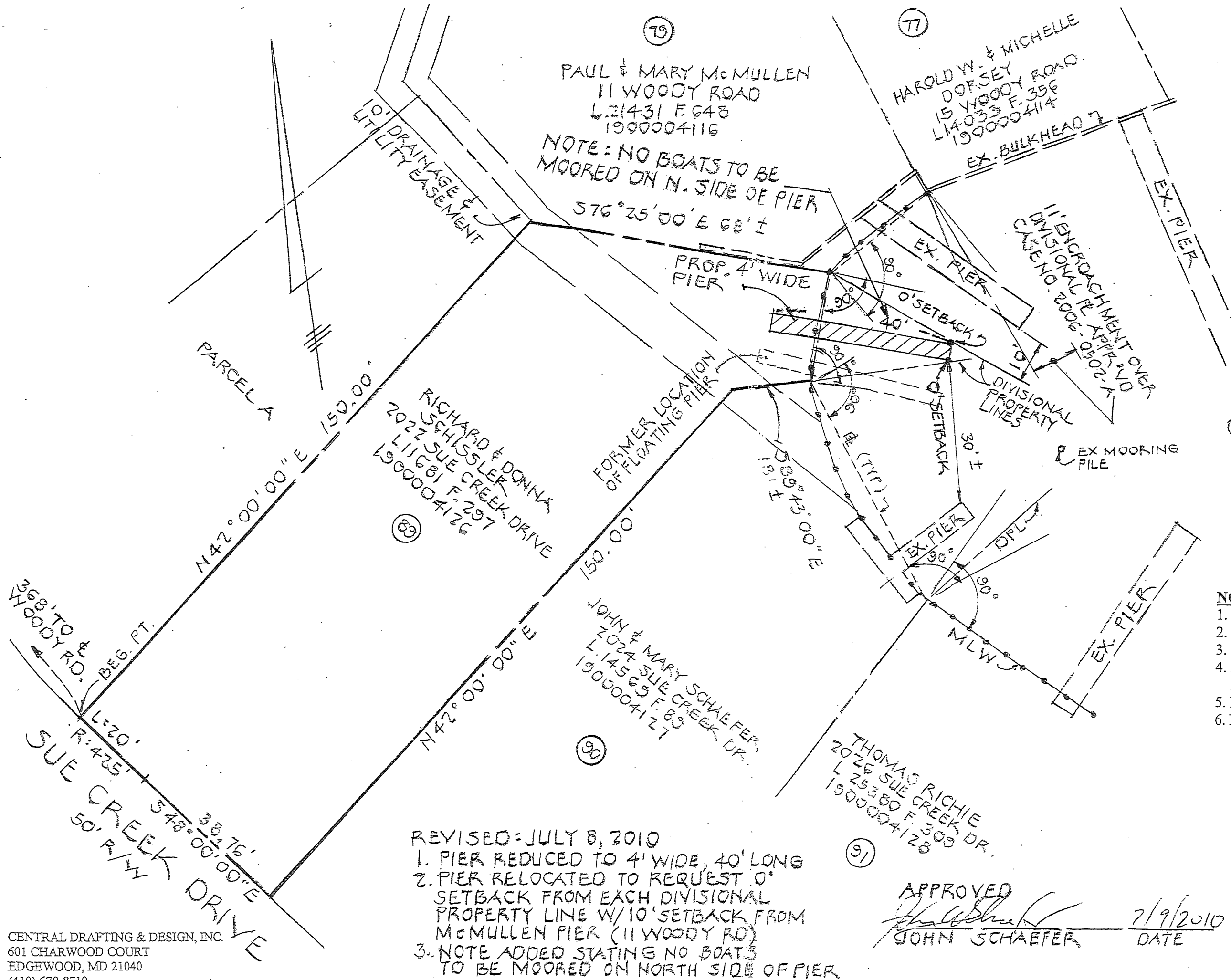




2010-0295-A



VICINITY MAP
SCALE: 1"=1000'



SUE CREEK
EBB
FLOOD

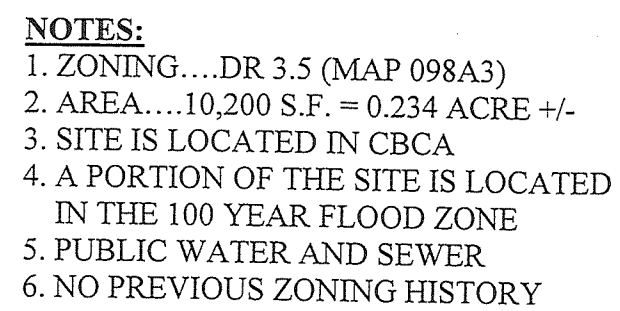
- NOTES:**
1. ZONING....DR 3.5 (MAP 098A3)
 2. AREA....10,200 S.F. = 0.234 ACRE +/-
 3. SITE IS LOCATED IN CBCA
 4. A PORTION OF THE SITE IS LOCATED IN THE 100 YEAR FLOOD ZONE
 5. PUBLIC WATER AND SEWER
 6. NO PREVIOUS ZONING HISTORY

REVISED: JULY 8, 2010

1. PIER REDUCED TO 4' WIDE, 40' LONG
2. PIER RELOCATED TO REQUEST 0' SETBACK FROM EACH DIVISIONAL PROPERTY LINE W/ 10' SETBACK FROM McMullen Pier (11 Woody Rd)
3. NOTE ADDED STATING NO BOATS TO BE MOORED ON NORTH SIDE OF PIER

APPROVED
[Signature]
JOHN SCHAEFER
DATE 7/9/2010

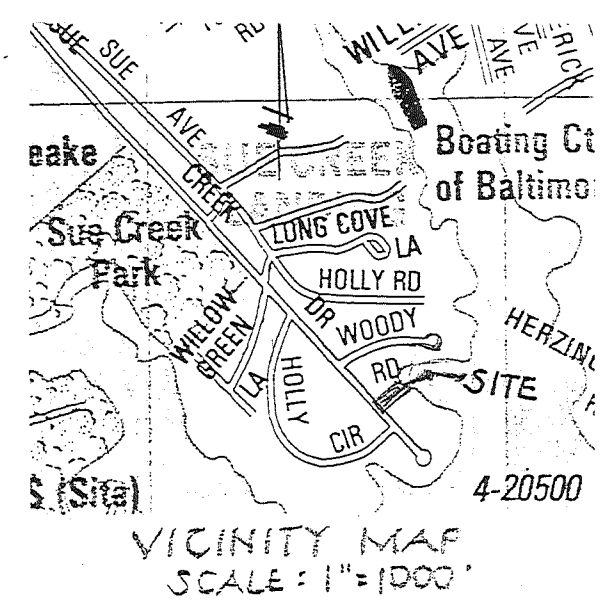
PLAT TO ACCOMPANY
PETITION FOR VARIANCE
2022 SUE CREEK DRIVE
LOT 89, PLAT 3
SUE CREEK LANDING P.B. 48 F. 8
ELECTION DISTRICT 15C6
BALTIMORE, COUNTY, MD.
SCALE: 1 INCH = 20 FEET
APRIL 12, 2010



replace

**PLAT TO ACCOMPANY
PETITION FOR VARIANCE
2022 SUE CREEK DRIVE
LOT 89, PLAT 3
SUE CREEK LANDING P.B. 48 F. 8
ELECTION DISTRICT 15C6
BALTIMORE, COUNTY, MD.
SCALE: 1 INCH = 20 FEET
APRIL 12, 2010**

PETITIONER'S
EXHIBIT NO. _____



NOTES:

1. ZONING....DR 3.5 (MAP 098A3)
2. AREA....10,200 S.F. = 0.234 ACRE +/-
3. SITE IS LOCATED IN CBCA
4. A PORTION OF THE SITE IS LOCATED
IN THE 100 YEAR FLOOD ZONE
5. PUBLIC WATER AND SEWER
6. NO PREVIOUS ZONING HISTORY

**PLAT TO ACCOMPANY
PETITION FOR VARIANCE
2022 SUE CREEK DRIVE
LOT 89, PLAT 3
SUE CREEK LANDING P.B. 48 F. 8
ELECTION DISTRICT 15C6
BALTIMORE, COUNTY, MD.
SCALE: 1 INCH = 20 FEET
APRIL 12, 2010**

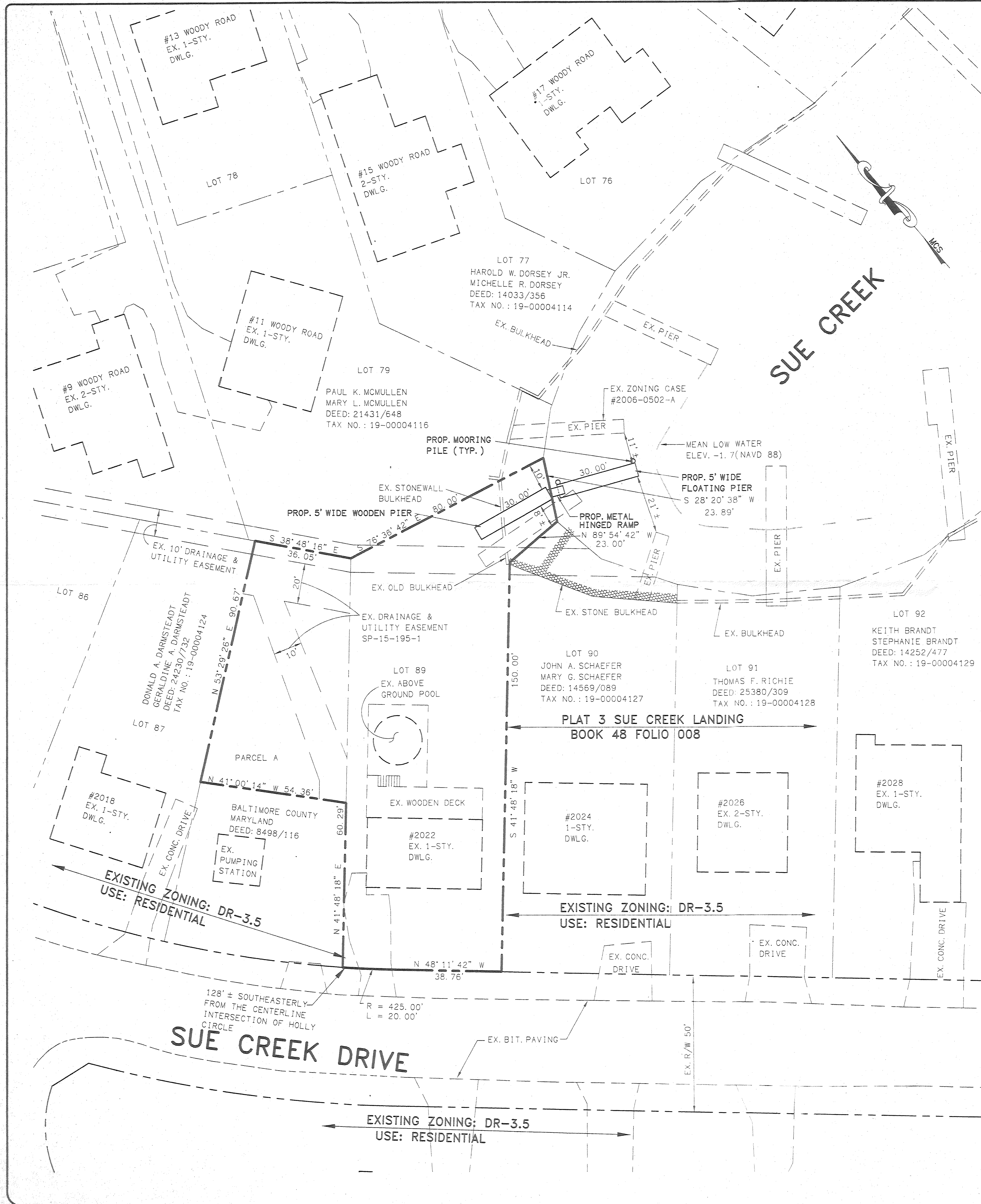
REVISED = JULY 22, 2010

1. PIER REDUCED TO 4' WIDE, 40' LONG
2. PIER RELOCATED TO REQUEST
VARIANCE TO PERMIT PIER TO
ENCROACH 11' OVER DIVISIONAL PL
3. NOTE ADDED STATING NO BOATS
TO BE MOORED ON SOUTH SIDE OF PIER.

APPROVED

JOHN SCHAEFER DATE

MARY McMULLEN DATE

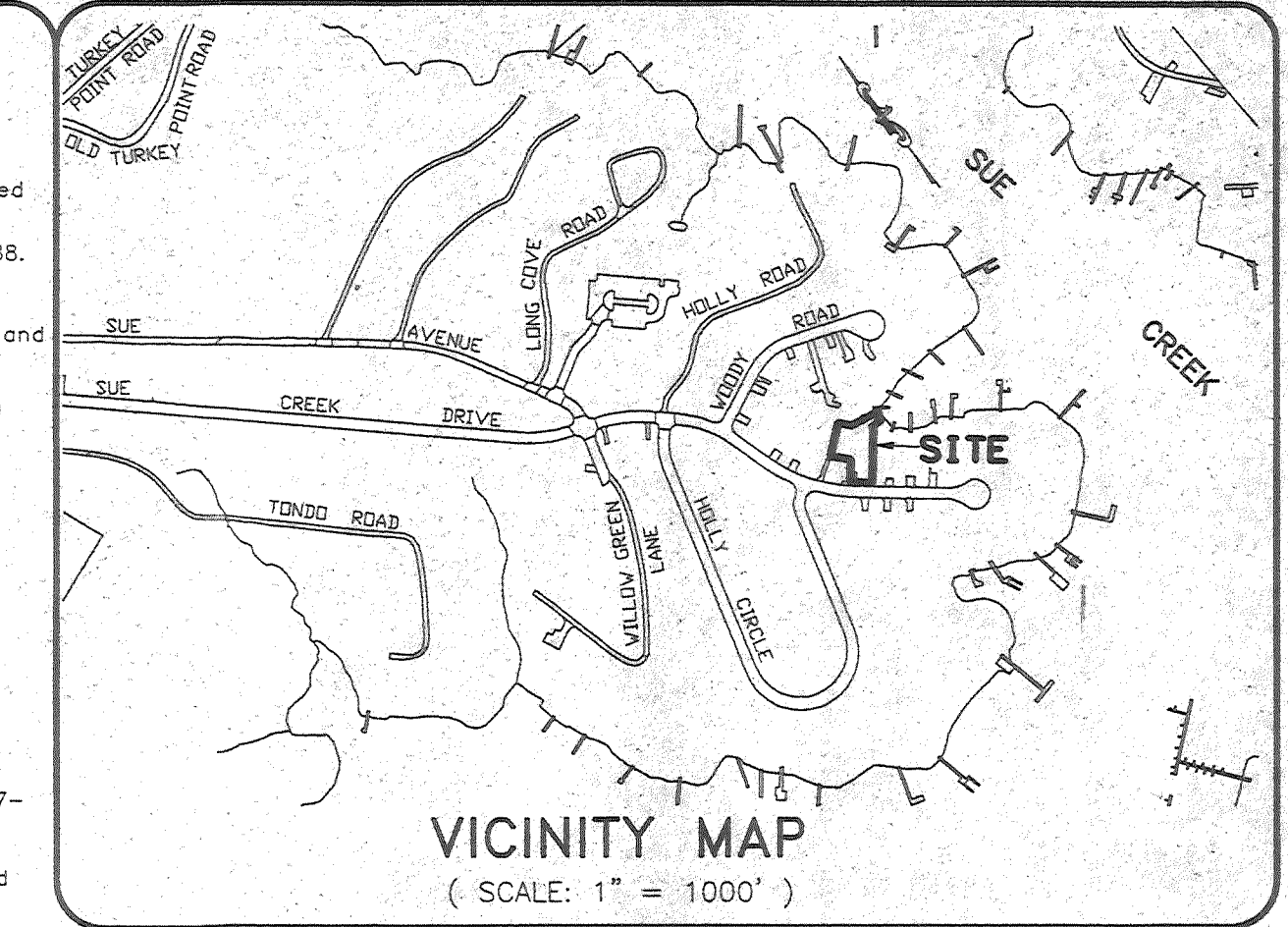


NOTES

- Topography shown hereon was taken from Baltimore County GIS Topography & Updated by field survey. (AUGUST 2012)
- The Firm Insurance Rate Map, 240010-0445 F indicates a portion of this site is situated within flood Zone AE. F.E.M.A. indicates a Flood Elevation of 8.5 NAVD 88 based on a Flood Insurance Study Number 240010V000B. A minimum first floor elevation 10.5 NAVD 88.
- Property lines shown hereon were established by public information.
- This site is situated within the Chesapeake Bay Critical Areas and is classified by land use as Limited Development Area (LDA) (MAP 98).
- There shall be no clearing, grading, construction or disturbance of vegetation within the 100' Buffer Area except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
- This site is situated within a Mapped Buffer Management Area of the Chesapeake Bay Critical Areas.
- There are no forest or developed woodlands on this site.
- There are no Tidal & Non-Tidal Wetlands shown on this site.
- There is no significant plant or animal habitat on this site.
- There are no known wells on this site.
- There are no known underground storage tanks or septic systems on this site.
- There are no known potentially hazardous materials on this site as defined by Title 7-Health and Environmental Article, Annotated Code of Maryland, except as noted.
- There are no buildings or property within this site that are included on the Maryland Historical Trust Inventory, The Baltimore County Landmarks List, the National Register of Historic Places, the Maryland Archeological Survey or is a Baltimore County Historical District.
- The site has 24' ± of water frontage.
- Public Water and sewer serve this site.
- Caution underground utilities may exist in Sue Creek Drive & onsite, contact Miss Utility (800-257-7777) prior to any construction.
- The subject site does not lie within a deficient basic service area.

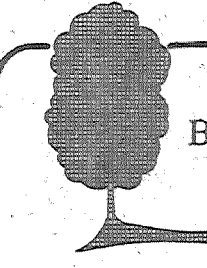
ZONING HISTORY

CASE NO. 2010-0295-A IS PENDING.

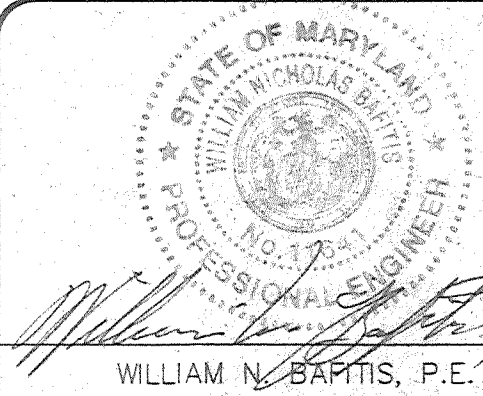


SITE DATA

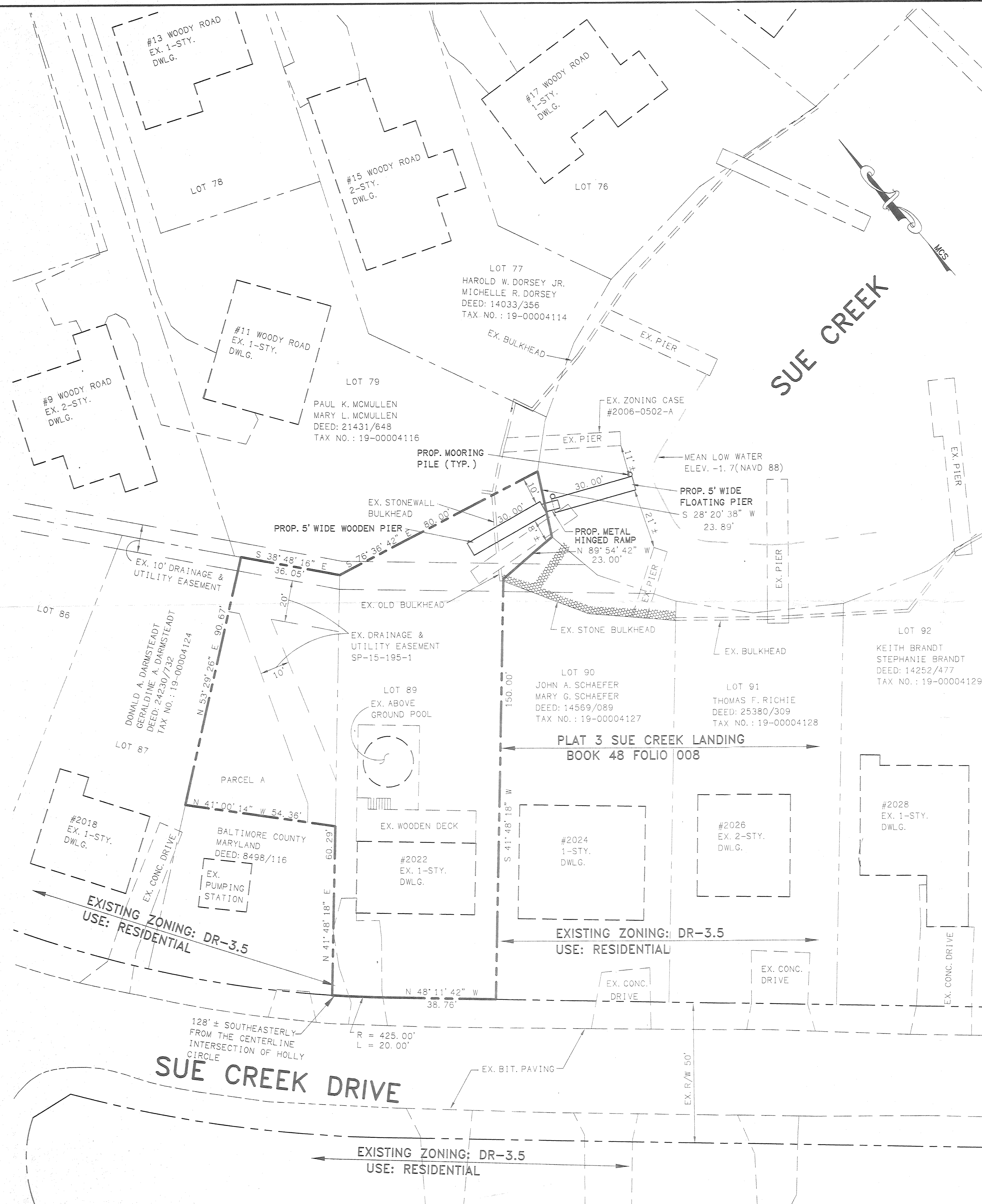
- OWNER: RICHARD J. & DONNA L. SCHISSLER
#2022 SUE CREEK DRIVE
BALTIMORE, MARYLAND 21221
- DEED REF: 11681/297 & 8975/006
- TAX ACC. NO.: 19-00004126
- TAX MAP: 98 PARCEL: 348 LOT: 89 & PART OF PARCEL A
- PLAT REF: PLAT 3 OF SUE CREEK LANDING 48/08
- ELECTION DISTRICT: 15TH
- CONCILMANIC DISTRICT: 6TH
- REGIONAL PLANNING DISTRICT: 328
- CENSUS TRACT: 4509
- ZONING: DR-3.5
- ZONING MAP: 098A3
- USE: EXISTING: RESIDENTIAL SINGLE FAMILY DWELLING
PROPOSED: FLOATING PIER
- SITE AREA: 14,252 S.F. OR 0.327 AC.

**Bafitis & Associates, Inc.**

William N. Bafitis, P.E.
PRESIDENT
Civil Engineers/Land Planners
SURVEYORS
1249 Engleberth Rd. Baltimore, MD 21221
(410) 391-2336

SITE PLAN FOR #2022 SUE CREEK DRIVE			
15TH ELECTION DISTRICT		BALTIMORE COUNTY, MARYLAND	
 WILLIAM N. BAFITIS, P.E. Professional Certification. I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland. License No. 11641. Expiration Date: 09/09/2013.	SCALE: 1" = 20'	JOB ORDER NO: 21210	
	DATE: 10/12/12	CHECKED: W.N.B.	DRAWN: N.W.B.
	SHEET 1 OF 1		
	NO.	REVISIONS	DATE

Continued - Revised 2010-0295-A

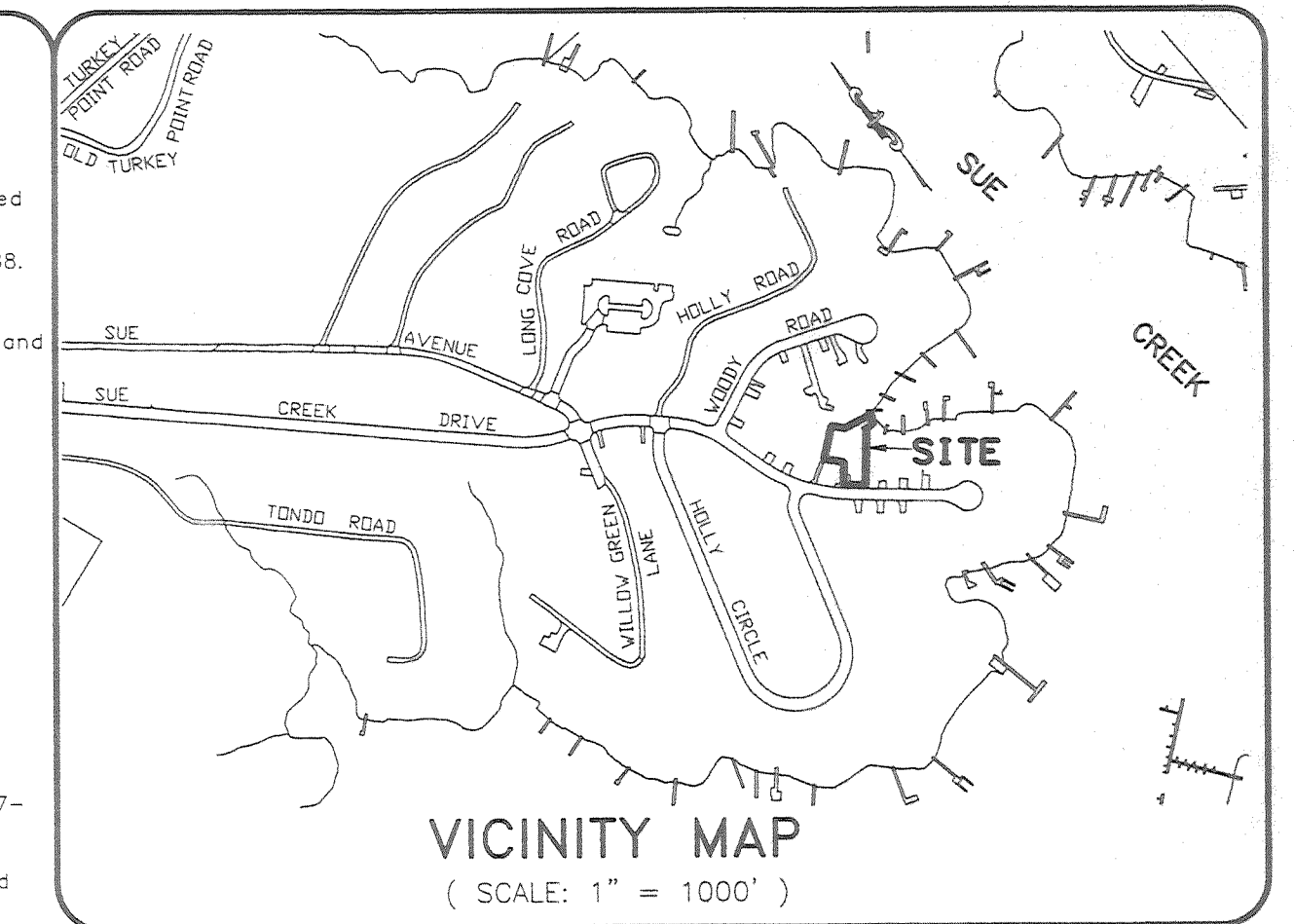


NOTES

1. Topography shown hereon was taken from Baltimore County GIS Topography & Updated by field survey, (AUGUST 2012).
2. The Firm Insurance Rate Map, 240010-0445 F indicates a portion of this site is situated within flood Zone A, F.E.W.A. and a Flood Elevation of 8.5 NAVD 88 based on a Flood Insurance Study Number 240010V000B. A minimum first floor elevation 10.5 NAVD 88.
3. Property lines shown hereon were established by public information.
4. This site is situated within the Chesapeake Bay Critical Areas and is classified by land use as Limited Development Area (LDA) (MAP 98).
5. There shall be no clearing, grading, construction or disturbance of vegetation within the 100' Buffer Area except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
6. This site is situated within a Mapped Buffer Management Area of the Chesapeake Bay Critical Areas.
7. There are no forest or developed woodlands on this site.
8. There are no Tidal & Non-Tidal Wetlands shown on this site.
9. There is no significant plant or animal habitat on this site.
10. There are no known wells on this site.
11. There are no known underground storage tanks or septic systems on this site.
12. There are no known potentially hazardous materials on this site as defined by Title 7- Health and Environmental Article, Annotated Code of Maryland, except as noted.
13. There are no buildings or property within this site that are included on the Maryland Historical Trust's Baltimore County Landmarks List, the National Register of Historic Places, the Maryland Archeological Survey or is a Baltimore County Historical District.
14. The site has 24' ± of water frontage.
15. Public Water and sewer serve this site.
16. Caution underground utilities may exist in Sue Creek Drive & onsite, contact Miss Utility (800-257-7777) prior to any construction.
17. The subject site does not lie within a deficient basic service area.

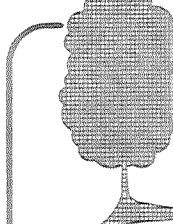
ZONING HISTORY

CASE NO. 2010-0295-A IS PENDING.



SITE DATA

- 1) OWNER: RICHARD J. & DONNA L. SCHISSLER
#2022 SUE CREEK DRIVE
BALTIMORE, MARYLAND 21221
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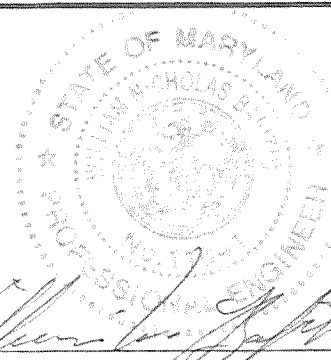
 Bafitis & Associates, Inc.	William N. Bafitis, P.E. PRESIDENT Civil Engineers/Land Planners SURVEYORS
1249 Engleberth Rd. Baltimore, MD 21221	(410) 391-2336

SITE PLAN

FOR

#2022 SUE CREEK DRIVE

15TH ELECTION DISTRICT	BALTIMORE COUNTY, MARYLAND
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WILLIAM N. BAFITIS, P.E.

Professional Certification. I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland. License No. 11641 Expiration Date: 09/09/2013

1

SHEET 1 OF 1

SCALE:
1" = 20'

JOB ORDER NO.
21210

DATE:
10/12/2012

CHECKED:
W.N.B.

DRAWN:
N.W.B.

NO.	REVISIONS	DATE

PETITIONER'S

EXHIBIT NO. 1