

IN RE: **PETITION FOR VARIANCE**  
NE/Side Clarke Boulevard, 228.9' N of  
Washington Boulevard  
**(1837 Clarke Boulevard)**  
13<sup>th</sup> Election District  
1<sup>st</sup> Council District

Clinton J. Fuchs, et ux  
Petitioners

BEFORE THE  
ZONING COMMISSIONER  
OF  
BALTIMORE COUNTY  
Case No. 2014-0001-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, Clinton J. Fuchs, and his wife, Kathleen Nora Flynn-Fuchs. The Petitioners request variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear setback for an existing dwelling of as close as 24 feet in lieu of the required 30 feet. Apparently, the contemplated sale by the Petitioners of their adjacent rear lot fronting on Superior Avenue, known as Lot 9, in the subdivision of Superior Heights, First Section, led to the discovery of the rear yard setback deficiency.<sup>1</sup> The subject property and requested relief are more particularly described on the site plan and recorded subdivision plat submitted which was accepted into evidence and marked as Petitioners' Exhibits 1 and 2, respectively.

Appearing at the requisite public hearing in support of the request were Clinton and Kathleen Fuchs, property owners, and Ronald W. Fuchs – Clint's father.

The issues presented in this case generated significant public interest. The contract purchasers and their realtor were present as were surrounding adjacent neighbors Dennis P.

<sup>1</sup> In the late 1930's, Clinton Fuchs' grandfather purchased several Superior Heights lots. Among them, Lot 11 – the subject property – was improved with the grandfather's dwelling, a 1,790 square foot, two-story brick colonial. The home's footprint has remained unchanged to date. An adjacent unimproved lot – Lot 12 – is now owned by Ronald William Fuchs, the Petitioners father. In August 2005, the Petitioners purchased Lots 9 and 11 from Kenneth R. Fuchs, the Petitioners uncle. As evidenced by the Maryland Department of Assessments and Taxation Map No. 108, Lots 9 and 11 have one (1) tax account number – 1306820064.

Clampett (1832 Superior Avenue), James H. Persing (1839 Clarke Boulevard) and Melissa Snyder. Messrs. Clampett and Persing testified in opposition to the request.

Testimony was offered describing the subject property and its historical value to the Petitioners family. Briefly, the Superior Heights subdivision, located in Relay, Maryland was platted in 1924, long before The Board of County Commissioners of Baltimore County implemented the first set of zoning regulations. Clinton Fuchs' grandfather purchased, among other lots, Lot 11 – the subject property at 1837 Clarke Boulevard. This lot has 99.96 feet of frontage on the east side of Clarke Boulevard and contains an area of 0.214 acres or 9,317 square feet. On this lot, he built his home in 1938. Lot 9, to the rear of Lot 11, was also purchased by the Petitioners' grandfather. This lot is somewhat smaller having 80 feet of frontage on the west side of Superior Avenue. This lot contains 0.203 acres or 8,860 square feet and remained vacant and unimproved for many years. Clinton Fuchs and his father meticulously presented the factual information spanning some 72 years in duration. The pertinent facts here disclose the Petitioners desire to now sell Lot 9, which has been under contract to be sold. The lot is a platted lot of record and meets the current D.R5.5 zoning regulations that were later imposed (minimum net lot area – 6,000 square feet and minimum lot width – 55 feet) for development. Apparently, however, it was discovered that the elder Kenneth W. Fuchs' placement of his home on Lot 11 – within the current setbacks to the rear lot line – some 70 years ago created a non-conforming deficiency that needed to be resolved prior to sale. Petitioners' nightmare began when they filed for a property line adjustment with the Department of Permits and Development Management (DPDM) to correct the six-foot deficiency. According to the Office of Planning in its Zoning Advisory Committee (ZAC) comment, dated August 2, 2010, DPDM's Development Review Committee (DRC) elected not to approve the lot line adjustment between Lots 9 and 11. See DRC No. 031610A. Moreover, the Fuchs attempt to create a six-foot easement between the parcels failed to meet with the lending and title company requirements. Failing to conform to existing rear yard setbacks, variance relief is requested as set forth above to allow the sale and development of Lot 9 by the contract purchasers. Without relief, Petitioners submit that the

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Date

By

present zoning ordinance will restrict the use of their property so that it cannot, within the specter of present zoning, be used for its intended purpose. When this occurs, they submit zoning goes beyond permissible and legal regulation and must yield to the rights of the property owner. *Belvoir Farms v. North*, 355 Md. 259 (1999) and *White v. North*, 356 Md. 31 (1999).

Government regulations of land use are largely a local function. The Baltimore County Council adopts zoning maps in Baltimore County every four (4) years, pursuant to the Comprehensive Zoning Map Process (CZMP), and under those maps, every property in Baltimore County is assigned one of the nearly 40 zoning classifications listed in the Baltimore County Zoning Regulations (B.C.Z.R.). Those classifications contain specific regulations that govern particular land uses and D.R.5.5 zoned lots are required to have a minimum area of 6,000 square feet, a minimum front yard setback depth of 25 feet, side yard setbacks of 10 feet, and a minimum rear yard depth of 30 feet. Variance relief can be granted only if the requirements contained in Section 307 of the B.C.Z.R. are met. This section states that the Zoning Commissioner may grant variances:

*... Only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations of Baltimore County would result in practical difficulty or unreasonable hardship.*

Variances are not favored under the law and presumed to be in conflict with the regulations. As stated in *Cromwell v. Ward*, 102 Md. App. 691, 703 (1995):

*The general rule is that authority to grant a variance should be exercised sparingly and only under exceptional circumstances.*

As noted above, the Protestants are neighbors from the community who raised a variety of concerns in this regard. In short, they believe that the Petitioners are trying to take advantage of the County's system and point out that the variance request must be denied on the grounds that "it is incumbent upon the Petitioner to obtain an accurate survey of the property's disputed size

and area before requesting relief ... that any hardship or practical difficulty that they (Fuchs) now claim was self-inflicted" since they knew before obtaining the lots in 2005 that Lot 9 was "a small unbuildable parcel" created by his ancestor and predecessor in title's consolidated use. *Roeser v. Anne Arundel*, 368 Md. 294 (2002). See Protestants' multiple photographs of the properties and depicting their use submitted as Protestants Exhibit 1 and 2.

This is not a simple case. From the evidence before me, I must conclude from a zoning standpoint that the prior owner(s) intended to merge the subject Lot 11 with Lot 9". Erecting a swimming pool, brick shed and driveway on and across Lot 9 without a principle dwelling thereon and then attempting to transfer ownership of this lot used accessory to the primary residence built on Lot 11 is the kind of overt actions conducted in a public forum that demonstrates an intent to merge Lot 9. There is no physical evidence that the lot was treated separately. See *Friends of the Ridge v. Baltimore Gas & Electric Company*, 352 Md. 645 (1999), and *Remes v. Montgomery County*, 387 Md. 52 (2005) for Maryland cases on the doctrine of zoning merger. The question now presented is whether the subsequent transfer of this lot (Lot 9) by the heirs and assigns of the Petitioners' grandfather can undue his prior merger? This is a difficult question in my view. Did the discontinuance of the "pool, driveway and shed" on Lot 9 by Clinton and Kathleen Fuchs over the past ten (10) years negate the prior merger? The record in the *Remes* case, a case factually similar to the case before me, shows the court noted that the doctrine of zoning merger operated two (2) ways. While it permitted consolidation, it also prohibited the undoing of the process once merger had occurred. It was pointed out by the court that if it was only applied to permit consolidation, the inevitable result over a period of years would be the proliferation of unlawful non-conforming uses. The court went on as follows:

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Date 8-31-06

By [Signature]

*" ... We stated in Ridge: 'We shall hold that a landowner who clearly desires to combine or merge several parcels or lots of land into one larger parcel may do so. One way he or she may do so is to integrate or utilize contiguous lots in the service of a single structure or project...' That is precisely what the elder Duffies did when, in making additions to their home and in constructing a pool on a lot adjacent to their home, they employed Lot 11 in the service of Lot 12 for zoning purposes.*

...

*"Thus, based on the setback encroachments existing as a result of structures on Lot 12, the proposed construction on Lot 11, would make Lot 12, if in separate ownership, a new and illegal nonconforming lot, unless, under the doctrine of zoning merger, the uses of Lot 11 are appropriately limited.*

...

*"... To allow Lot 11 to be used as proposed, thus creates an illegal nonconformance as to lot 12 and, by implication, grants an improper variance as to the rear yard setback for Lot 12. Should this Court permit Lot 11 to be so used and a home constructed thereon, what becomes of Lot 12's ability to comply with existing rear yard and side yard setback requirements? Such action effectively waives the zoning requirements as to Lot 12.*

...

*"[If zoning merger only applied to permit consolidation, but did not operate to prohibit the undoing of merger] The owner would have the benefit of avoiding zoning violations by treating the parcels as merged for zoning purposes, but later seek benefit from the sale of two separate parcels of land. That is exactly what is occurring in the instant case."*

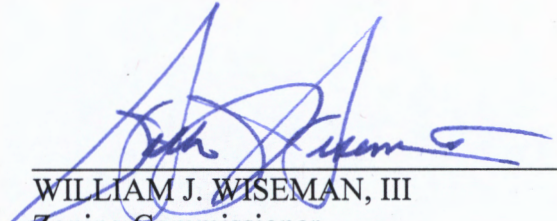
In summary, Judge Cathell noted in *Remes* that there is a national effort by counties to restrict undersized parcels, especially where the owner has or had contiguous parcels. He indicated that the doctrine of zoning merger generally prohibits the use of individual parcels if the contiguous parcels have been, at any relevant time, in the same ownership.

I find from the facts before me that the subject lot had merged with the other "Superior Heights" Lot 9 owned by Mr. Fuchs' grandfather, and his children prior to the Petitioners' acquiring the property. Once this occurred there can be no variance without the parcel proceeding through the minor subdivision process, which has not occurred. Therefore, I will deny the requested variance, as there are no internal divisions between lots recognized by zoning against which variances can be granted.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, I find that the Petitioners' variance request should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 31<sup>st</sup> day of August 2010, that the Petition for Variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 24 feet in lieu of the required 30 feet, be and is hereby DENIED.

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

  
WILLIAM J. WISEMAN, III  
Zoning Commissioner  
for Baltimore County

WJW:dlw

ORDER RECEIVED FOR FILING

Date

8-31-10

By

DLW



**BALTIMORE COUNTY**  
MARYLAND

JAMES T. SMITH, JR.  
*County Executive*

WILLIAM J. WISEMAN III  
*Zoning Commissioner*

August 31, 2010

Clinton J. Fuchs  
Kathleen Nora Flynn-Fuchs  
105 Taplon Road  
Baltimore, Maryland 21212

**RE: PETITION FOR VARIANCE**  
NE/Side Clarke Boulevard, 228.9' N of Washington Boulevard  
**(1837 Clarke Boulevard)**  
13<sup>th</sup> Election District - 1<sup>st</sup> Council District  
Clinton J. Fuchs, et ux - Petitioners  
**Case No. 201-0001-A**

Dear Mr. and Mrs. Fuchs:

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 Department of Permits and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "William J. Wiseman III".

WILLIAM J. WISEMAN, III  
Zoning Commissioner  
for Baltimore County

WJW:dlw  
Enclosure

c: Ronald W. Fuchs, P.O. Box 95, Sherwood, MD 21665  
Dennis P. Clampett, 1832 Superior Avenue, Baltimore, MD 21227  
James H. Persing, 1839 Clarke Boulevard, Halethorpe, MD 21227  
Melissa Snyder, 236 Altamont Avenue, Catonsville, MD 21228  
People's Counsel; File



# Petition for Variance

to the Zoning Commissioner of Baltimore County  
for the property located at 1837 CLARKE BLVD  
which is presently zoned DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1802.3.C.1 (BCR) TO PERMIT A

REAR SETBACK FOR AN EXISTING DWELLING OF AS CLOSE AS 24' IN LIEU OF THE REQUIRED 30 FT. (SALE OF ADJACENT LOT 9 HAVING LED TO SAID DEFICIENCY)

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) PER ZONING REVIEW CONTACT WITH OWNER VARIANCE IS REQUIRED DUE TO SALE OF LOT 9, ALSO TO BE DETERMINED 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.

## Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

## Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Case No. 2011-0001-A

## Legal Owner(s):

CLINTON FUCHS

Name - Type or Print

Signature

Kathleen Nora Fuchs - Fuchs

Name - Type or Print

Kathleen Nora Fuchs

Signature

105 TAPLOW RD.

Address

443 835-1129

Telephone No.

BALTIMORE

City

MD

State

21212

Zip Code

## Representative to be Contacted:

RONALD FUCHS

Name

P.O. BOX 95

Address

410 886-2955

Telephone No.

SHERWOOD

City

MD

State

21665

Zip Code

## OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1 HR

UNAVAILABLE FOR HEARING

Reviewed By SL (LW) Date 7/9/10

0001

ZONING DESCRIPTION FOR 1837 CLARKES BLVD.  
RELAY, MD 21227

BEGINNING AT A POINT ON THE EAST SIDE  
OF CLARKES BLVD. WHICH IS 45 FEET WIDE  
AT THE DISTANCE OF 228.9 FEET WEST OF  
THE CENTERLINE OF THE NEAREST IMPROVED  
INTERSECTING STREET, SUPERIOR AVENUE  
WHICH IS 30 FEET WIDE. BEING LOT #11,  
BLOCK N/A, SECTION #1 IN THE SUBDIVISION  
OF SUPERIOR HEIGHTS, FIRST SECTION AS  
RECORDED IN BALTIMORE COUNTY PLAT BOOK  
#7, FOLIO #120, CONTAINING 9317 SQUARE  
FEET. ALSO KNOWN AS 1837 CLARKS BLVD.  
AND LOCATED IN THE 13 ELECTION DISTRICT,  
1 COUNCILMANIC DISTRICT

**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.**

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**For Newspaper Advertising:**

Item Number or Case Number: 2011 - 0001 - A

Petitioner: CLINTON FUCHS

Address or Location: 1037 CLARKE BLVD, BALTIMORE MD 21227

PLEASE FORWARD ADVERTISING BILL TO:

Name: CLINTON J. FUCHS

Address: 105 TAPLOW RD

BALTIMORE MD 21212

Telephone Number: 443 035-1129

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

# 2011-0001-A  
 JV

No. 55949

Date: 7/01/10

| Fund | Dept | Unit | Sub Unit | Rev<br>Source/<br>Obj | Sub<br>Rev/<br>Sub Obj | Dept Obj | BS Acct | Amount |
|------|------|------|----------|-----------------------|------------------------|----------|---------|--------|
| 001  | 606  | 0000 |          | 6150                  |                        |          |         | 65.00  |
|      |      |      |          |                       |                        |          |         |        |
|      |      |      |          |                       |                        |          |         |        |
|      |      |      |          |                       |                        |          |         |        |
|      |      |      |          |                       |                        |          |         |        |
|      |      |      |          |                       |                        |          |         |        |
|      |      |      |          |                       |                        |          |         |        |

Total: 65.00

Rec  
From:

For:

1637 (CLARK-5 BIV). RSC VAR.

**DISTRIBUTION**

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**PAID RECEIPT**

BUSINESS ACTION TIME DAY  
 7/02/2010 7/02/2010 09:41:07 2  
 FID INSC: PAUL JEFF JEE  
 RECEIPT # 458949 7/02/2010 CFP  
 Dept 5 528 BIDDING VERIFICATION  
 CR NO. 0055949  
 Regt tot \$65.00  
 \$65.00 IN \$65.00 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: # 2011-0001-A  
1837 Clarke Boulevard  
N/east side of Clarke Boulevard, 228.9 feet north of Washington Boulevard  
13th Election District  
1st Councilmanic District  
Legal Owner(s): Clinton Fuchs & Kathleen Nova Flynn-Fuchs

Variance: to permit a rear setback for an existing dwelling of as close as 24 feet in lieu of the required 30 feet.

Hearing: Monday, August 23, 2010 at 11:00 a.m. in Room 104, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III  
Zoning Commissioner for Baltimore County

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

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

08/094 Aug. 5 249830

# CERTIFICATE OF PUBLICATION

8/5, 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 8/5, 2010.

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

J. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No 2011-0001-A

Petitioner/Developer CLAYTON  
FUCHS & KATHLEEN FUCHS

Date Of Hearing/Closing: 8/23/10

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

Attention:

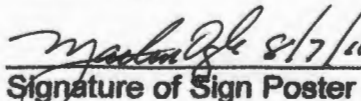
Ladies and Gentlemen

This letter is to certify under penalties of perjury that the necessary  
sign(s) required by law were posted conspicuously on the property  
at 1837 CLARKE BLVD.

This sign(s) were posted on August 7, 2010

Month, Day, Year

Sincerely,

 8/7/10  
Signature of Sign Poster and Date

Martin Ogle

60 Chelmsford Court

Baltimore, Md, 21220

443-629-3411

*myalms 8/7/10*



## ZONING NOTICE

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

CASE # 2011-0001-A

ROOM 104, TOWSON BUILDING 105

PLACE: WEST CHESAPEAKE AVENUE, TOWSON 21204

DATE AND TIME: TUESDAY, AUGUST 23, 2011  
AT 11:00 A.M.

REQUEST: VARIANCE TO PERMIT A REAR SETBACK FOR  
AN EXISTING BUILDING OF AT LEAST AS 24  
FEET IN LENGTH OF THE REARSET 30 FEET

ADDITIONAL INFORMATION IS AVAILABLE AT  
ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT  
TEL: 410-587-3371

100 N. EIGHTH STREET, SUITE 200  
TOWSON, MD 21204

WE STAND FOR ENVIRONMENTAL RESPONSIBILITY

TO: PATUXENT PUBLISHING COMPANY  
Thursday, August 5, 2010 Issue - Jeffersonian

Please forward billing to:  
Clinton Fuchs  
105 Taplow Road  
Baltimore, MD 21212

443-835-1129

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## 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: 2011-0001-A**

1837 Clarke Boulevard

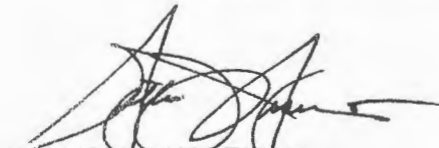
N/east side of Clarke Boulevard, 228.9 feet north of Washington Boulevard

13<sup>th</sup> Election District – 1<sup>st</sup> Councilmanic District

Legal Owners: Clinton Fuchs & Kathleen Nova Flynn-Fuchs

Variance to permit a rear setback for an existing dwelling of as close as 24 feet in lieu of the required 30 feet.

Hearing: Monday, August 23, 2010 at 11:00 a.m. in Room 104, Jefferson Building,  
105 West Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III  
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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



**BALTIMORE COUNTY**  
MARYLAND

JAMES T. SMITH, JR.  
County Executive

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

July 28, 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: 2011-0001-A**

1837 Clarke Boulevard

N/east side of Clarke Boulevard, 228.9 feet north of Washington Boulevard

13<sup>th</sup> Election District – 1<sup>st</sup> Councilmanic District

Legal Owners: Clinton Fuchs & Kathleen Nova Flynn-Fuchs

Variance to permit a rear setback for an existing dwelling of as close as 24 feet in lieu of the required 30 feet.

Hearing: Monday, August 23, 2010 at 11:00 a.m. in Room 104, Jefferson Building,  
105 West Chesapeake Avenue, Towson 21204

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

Timothy Kotroco  
Director

TK:kl

C: Ronald Fuchs, P.O. Box 95, Sherwood 21665  
Mr. & Mrs. Fuchs, 105 Taplow Road, Baltimore 21212

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, AUGUST 7, 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.**



## 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*

August 19, 2010

Mr. & Mrs. Fuchs  
105 Taplow Rd.  
Baltimore, MD 21212

Dear: Ronald Fuchs

RE: Case Number 2011-0001-A, 1837 Clarke Blvd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on July 01, 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.".

W. Carl Richards, Jr.  
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel  
Ronald Fuchs; P.O. Box 95; Sherwood, MD 21665

*Encl*

BW 8/23  
11 AM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

**DATE:** August 2, 2010

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

RECEIVED

**SUBJECT:** 1837 Clarke Boulevard

AUG 06 2010

**INFORMATION:**

**Item Number:** 11-001

ZONING COMMISSIONER

**Petitioner:** Clinton Fuchs

**Zoning:** DR 5.5

**Requested Action:** Variance

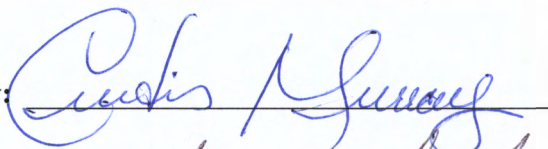
**SUMMARY OF RECOMMENDATIONS:**

The Office of Planning has reviewed the petitioner's request and accompanying site plan. The subject lot was part of DRC request 031610A. It appears that the requested lot line adjustment for lots 9 and 11 shown on the 1924 Superior Heights Plat is no longer being pursued.

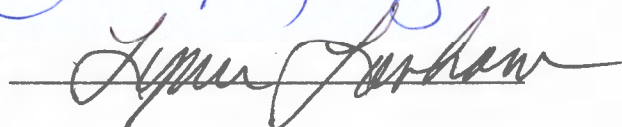
The Office of Planning does not oppose the requested variance if this is a separate lot. However, it isn't clear whether this lot (lot 11) and the adjoining lot (lot 9) should be considered merged lots.

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

**Prepared by:**



**Division Chief:**  
AFK/LL: CM



BW 8/23  
11 Am

**BALTIMORE COUNTY, MARYLAND**

**Inter-Office Correspondence**



**RECEIVED**

**AUG 19 2010**

**ZONING COMMISSIONER**

**TO:** Timothy M. Kotroco  
**FROM:** Dave Lykens, DEPRM - Development Coordination  
**DATE:** August 18, 2010  
**SUBJECT:** Zoning Item # 11-001-A  
Address 1837 Clarke Boulevard  
(Fuchs Property)

Zoning Advisory Committee Meeting of July 12, 2010

X The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

Reviewer: JWL Date: 8/18/2010

**BALTIMORE COUNTY, MARYLAND**  
**INTEROFFICE CORRESPONDENCE**

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

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

**SUBJECT:** Zoning Advisory Committee Meeting  
For July 26, 2010  
Item Nos. 2011-0001, 0002, 0003,  
0004, 0005, 0006, and 0007

**DATE:** July 15, 2010

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-07262010 -NO COMMENTS.doc



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

State Highway  
Administration

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: July 19, 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. 2011-0001-A  
1887 CHARKE BLVD  
FUCHS 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. 2011-0001-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: 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](http://www.sha.maryland.gov)



## BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.  
*County Executive*

JOHN J. HOHMAN, *Chief*  
*Fire Department*

July 19, 2010

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

ATTENTION: Zoning Review

Distribution Meeting of: July 26, 2010

Item No.: **Variance:** 2011-0001A.

**Administrative Variance:** 2011-0003A - 0007A.

Pursuant to your request, the referenced plans have been reviewed by the **Baltimore County Fire Marshal's Office** and the comment below is applicable and required to be corrected or incorporated into the final plans for the above listed properties.

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

Don W. Muddiman, Acting Lieutenant  
Baltimore County Fire Marshal's Office  
700 E. Joppa Road, 3<sup>RD</sup> Floor  
Towson, Maryland 21286  
410-887-4880  
Mail Stop: 1102

cc: File

RE: PETITION FOR VARIANCE \* BEFORE THE  
1837 Clarke Boulevard; NE/S Clarke \*  
Boulevard, 228.9' N of Washington Blvd. \* ZONING COMMISSIONER  
13<sup>th</sup> Election and 1<sup>st</sup> Councilmanic Districts \*  
Legal Owner(s): Clinton & Kathleen Fuchs \* FOR  
Petitioner(s) \* BALTIMORE COUNTY  
\* 2011-001-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

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 20<sup>th</sup> day of July, 2010, a copy of the foregoing Entry of Appearance was mailed to Ronald Fuchs, P.O. Box 95, Sherwood, MD 21665, Representative for Petitioner(s).

*Peter Max Zimmerman*

PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

RECEIVED

JUL 20 2010

.....

8/23-11am

CASE NO. 2011- 0001-A

CHECKLIST

| <u>Comment Received</u> | <u>Department</u>                                     | <u>Support/Oppose/ Conditions/ No Comment</u> |
|-------------------------|-------------------------------------------------------|-----------------------------------------------|
| <u>7-15</u>             | DEVELOPMENT PLANS REVIEW                              | <u>None</u>                                   |
| <u>8-19</u>             | DEPRM<br>(if not received, date e-mail sent _____)    | <u>NO Comments</u>                            |
| <u>7-19</u>             | FIRE DEPARTMENT                                       | <u>None</u>                                   |
| <u>8-6</u>              | PLANNING<br>(if not received, date e-mail sent _____) | <u>Comment</u>                                |
| <u>7-19</u>             | STATE HIGHWAY ADMINISTRATION                          | <u>No objection</u>                           |
| _____                   | TRAFFIC ENGINEERING                                   | _____                                         |
| _____                   | COMMUNITY ASSOCIATION                                 | _____                                         |
| _____                   | ADJACENT PROPERTY OWNERS                              | _____                                         |

ZONING VIOLATION (Case No. \_\_\_\_\_)

PRIOR ZONING (Case No. \_\_\_\_\_)

None per data base 8-16-10

NEWSPAPER ADVERTISEMENT Date: 8-5-10

SIGN POSTING Date: 8-7-10

PEOPLE'S COUNSEL APPEARANCE Yes ☒ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

No Check with

Clinton Fuchs  
105 Taplow Road  
Baltimore, MD  
June 22, 2010

To: Lu  
6/24/10 ua

10-159

Timothy Kotroco  
Office of Permits and Development  
Baltimore County Zoning Office  
111 West Chesapeake Ave  
Towson, MD 21204

Dear Mr. Kotroco,

My wife and I are the current owners of lots 9 and 11 located at 1837 Clark Boulevard, Relay, Maryland 21227, tax account number 1306820064. I am currently in the process of selling lot 9, which was previously subdivided. I will retain lot 11, on which our house sits.

Our mortgage is secured by both properties. In order to authorize releasing lot 9 from the mortgage, our mortgage company has requested that we provide a letter from your office which confirms that these two lots were previously subdivided and that lot 11 will continue to conform to all county restrictions and/or requirements and that the necessary access is still available. The recorded plat for the two properties and the letter from our mortgage company are attached.

Thank you for your assistance in this matter, if you have any questions or comments, please feel free to contact me at (443) 835-1129.

Sincerely,



Clinton Fuchs

Owners do not live there.  
50. ~~60~~

Need Devolution

- 1) This plot is of benefit to a consumer only insofar as it is required by a lender or title insurance company or its agent in connection with contemplated transfer, financing or refinancing.
- 2) This plot is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements;
- 3) This plot does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or refinancing.
- 4) The level of accuracy of apparent setback distances is within 3 feet +

- 1) The subject property falls in flood zone "C" as shown on the flood hazard boundary map 240010 0502 C dated 07/08/91.
- 2) This is not a boundary survey or lot stakeout. No title research furnished to or done by this office.
- 3) This plat shows the principal structure and significant structures (close to the apparent property lines) as required by Maryland law. However, additional internal structures may not be shown.
- 4) Fences shown as — x — x — are approximate only. The exact location of fences and boundary lines can be accomplished with a boundary survey.
- 5) Land records reference DEED 14106/630



5443 Southern Maryland Boulevard  
Lothian, Maryland 20711  
410-741-0850 301-574-0226  
1-800-235-4681



## **USAA FEDERAL SAVINGS BANK**

3451 Hammond Ave, P.O. Box 205, Waterloo, IA 50702

June 16, 2010

CLINTON J FUCHS  
KATHLEEN NORA FLYNN-FUCHS  
105 TAPLOW ROAD  
BALTIMORE MD 21212

RE: ACCOUNT NO. 702078152  
1837 CLARK BLVD  
RELEY MD 21227

Dear Clinton and Kathleen:

We have reviewed the items you recently sent for a Partial Release Request to the above-referenced property. Pursuant to previous correspondence dated July 07, 2009, we will need the following items before we can proceed with the review of the Partial Release Request:

1. A signed document from your local zoning office or planning department stating the remaining property will continue to conform to all city and county restrictions and/or requirements, such as, but not limited to, set back and lot size requirements, and that the necessary access (ingress and egress) is still available.

**The information you submitted states the property encumbered on your Deed of Trust has been subdivided. Has this been made of record with the county? Have new tax parcel numbers been assigned to the subdivided lots? As stated above, we need something showing that Lot 11 continues to conform to county regulations and restrictions after subdivision prior to consideration of releasing Lot 9.**

Upon receipt of the above items, your request will be reviewed for a preliminary decision. Additional documentation may be required. Please forward the requested items to the Land Title Adjustment Department at 3451 Hammond Ave, Waterloo, IA 50702

If the requested information is not received by **July 15, 2010**, we will consider your request withdrawn.

If you have any questions, please contact me at (877)569-4632, ext. 2365417, or directly at (319) 236-5417

Kevin Kehe  
Servicing Operations Specialist  
Land Title Adjustment Department  
Mortgage Loan Servicing



**Maryland Department of Assessments and Taxation**  
**BALTIMORE COUNTY**  
**Real Property Data Search** (2007 vw6.3d)

[Go Back](#)  
[View Map](#)  
[New Search](#)

**Account Identifier:** District - 13 **Account Number -** 1306820064

**Owner Information**

**Owner Name:** FUCHS CLINTON J  
 FLYNN-FUCHS KATHLEEN NORA  
**Use:** RESIDENTIAL  
**Principal Residence:** YES  
**Mailing Address:** 1837 CLARKE BLVD  
 BALTIMORE MD 21227-4906  
**Deed Reference:** 1) /22295/ 256  
 2)

**Location & Structure Information**

**Premises Address**  
 1837 CLARKE BLVD  
**Legal Description**  
 .417AC LOTS 9,11  
 1837 CLARKE BLVD  
 SUPERIOR HEIGHTS

| Map | Grid | Parcel | Sub District | Subdivision | Section | Block | Lot | Assessment Area | Plat No:         |
|-----|------|--------|--------------|-------------|---------|-------|-----|-----------------|------------------|
| 108 | 17   | 692    |              |             |         |       | 9   | 1               | Plat Ref: 7/ 120 |

**Special Tax Areas**  
 Town  
 Ad Valorem  
 Tax Class

| Primary Structure Built | Enclosed Area | Property Land Area | County Use |
|-------------------------|---------------|--------------------|------------|
| 1938                    | 1,790 SF      | 18,177.00 SF       | 04         |

| Stories | Basement | Type          | Exterior |
|---------|----------|---------------|----------|
| 2       | YES      | STANDARD UNIT | BRICK    |

**Value Information**

|                    | Base Value | Value As Of 01/01/2010 | Phase-in Assessments As Of 07/01/2009 | As Of 07/01/2010 |
|--------------------|------------|------------------------|---------------------------------------|------------------|
| Land               | 88,540     | 88,500                 |                                       |                  |
| Improvements:      | 189,060    | 161,600                |                                       |                  |
| <b>Total:</b>      | 277,600    | 250,100                | 277,600                               | 250,100          |
| Preferential Land: | 0          | 0                      | 0                                     | 0                |

**Transfer Information**

|                                      |                           |                         |
|--------------------------------------|---------------------------|-------------------------|
| <b>Seller:</b> FUCHS KENNETH ROBERTS | <b>Date:</b> 08/02/2005   | <b>Price:</b> \$250,000 |
| <b>Type:</b> NOT ARMS-LENGTH         | <b>Deed1:</b> /22295/ 256 | <b>Deed2:</b>           |
| <b>Seller:</b> FUCHS KENNETH W       | <b>Date:</b> 10/22/1999   | <b>Price:</b> \$143,000 |
| <b>Type:</b> NOT ARMS-LENGTH         | <b>Deed1:</b> /14106/ 630 | <b>Deed2:</b>           |
| <b>Seller:</b>                       | <b>Date:</b>              | <b>Price:</b>           |
| <b>Type:</b>                         | <b>Deed1:</b>             | <b>Deed2:</b>           |

**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 \*

417 acres  
 - 214 acres  
 -----  
 203-  
 18,177  
 - 9317  
 -----  
 8860

Ronald Wm Fuchs - (Lot 12) (Lot 13)

Kenneth Robert Fuchs (Deceased)

Kenneth W. Fuchs

CASE NAME Fuchs  
CASE NUMBER 2011-0001-A  
DATE 8-23-10

[illegible]

CASE NAME Fuchs  
CASE NUMBER 2011-0001-A  
DATE 8-23-10

[illegible]

Case No.: 2011-0001-A 1837 CLARKE BLVD

Exhibit Sheet

Petitioner/Developer

Protestant

|        |                   |                                                     |
|--------|-------------------|-----------------------------------------------------|
| No. 1  | Site Plan         | Aerial Photo of Area                                |
| No. 2  | Sub Division PLAT | Photographs Existing<br>Conditions                  |
| No. 3  |                   | Existing Conditions<br>Lot 9 - Various Photographs. |
| No. 4  |                   |                                                     |
| No. 5  |                   |                                                     |
| No. 6  |                   |                                                     |
| No. 7  |                   |                                                     |
| No. 8  |                   |                                                     |
| No. 9  |                   |                                                     |
| No. 10 |                   |                                                     |
| No. 11 |                   |                                                     |
| No. 12 |                   |                                                     |

Case No.: 2011-0001-A 1837 CLARKE BLVD

Exhibit Sheet

Petitioner/Developer

Protestant

|        |                   |                                                     |
|--------|-------------------|-----------------------------------------------------|
| No. 1  | Site Plan         | Aerial Photo of Area                                |
| No. 2  | Sub Division Plat | Photographs Existing Conditions                     |
| No. 3  |                   | Existing Conditions<br>Lot 9 - Various Photographs. |
| No. 4  |                   |                                                     |
| No. 5  |                   |                                                     |
| No. 6  |                   |                                                     |
| No. 7  |                   |                                                     |
| No. 8  |                   |                                                     |
| No. 9  |                   |                                                     |
| No. 10 |                   |                                                     |
| No. 11 |                   |                                                     |
| No. 12 |                   |                                                     |

Plot 1



Copyright (C) 2003 Baltimore County, Maryland

**PROTESTANT' S**

**EXHIBIT NO.**

1



PROTESTANT' S

EXHIBIT NO. 2



PROTESTANT' S

EXHIBIT NO. 3







**ZONING NOTICE**

1. The following property is located in the R-1 Zoning District and is currently zoned R-1.

2. The property is located at 1234 Main Street, City, State, ZIP.

3. The property is currently zoned R-1 and is being offered for sale.

4. The property is being offered for sale as a single-family residence.

5. The property is being offered for sale as a single-family residence.

6. The property is being offered for sale as a single-family residence.

7. The property is being offered for sale as a single-family residence.

8. The property is being offered for sale as a single-family residence.

9. The property is being offered for sale as a single-family residence.

10. The property is being offered for sale as a single-family residence.





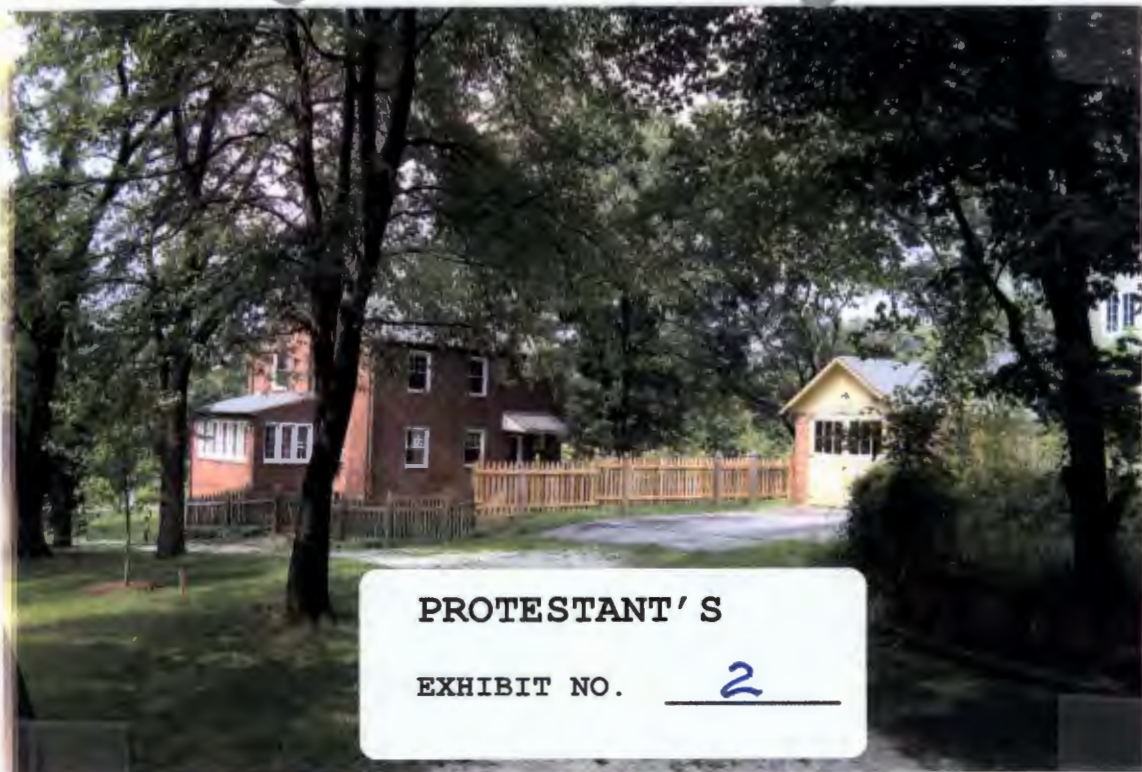


























LOTS 8, 12 & 13 ARE FOR SALE  
(POSSIBLY LOT 9)



1319070550

Lot # 14

108C2

1830

1304200230

Lot # 7

PDM # 130025

1303471371

Lot # B Pt. Bk. 26, Folio 90

Pt. Bk. Folio = 026050

1319071110

Lot # 13

2400006617

Lot # 8

1832

SUPERIOR AVE

1306820064

Lot # 9

PDM # 138002

1837

Pt. Bk./Folio = 007120D

1302000543

ITEM  
0001

108C3

SITE

Lot # 10

1319000130

Pt. Bk. 7, Folio 120

1839

1319580330

19990C

Pt. Bk. Folio = 072150

PDM # 130072

HIGHGATE (PDM File Project # )

CLARKE BLVD

W 7-D DR 55

1 CD

3 ED

# PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

PROPERTY ADDRESS 1837 CLARKS BLVD

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

SUBDIVISION NAME SUPERIOR HEIGHTS FIRST SECTION

PLAT BOOK # W.P.C. 7 FOLIO # 120 LOT # 11 SECTION # 1ST

OWNER CLINTON J. FUCHS & KATHLEEN NORA FLYNN-FUCHS

DENNIS ETRINA CLAMPETT  
1832 SUPERIOR AVE

CLINTON & KATHLEEN FUCHS

LOT 8  
'SUPERIOR HEIGHTS'  
PB 7/120

VACANT

LOT 9  
'SUPERIOR HEIGHTS'  
PB 7/120

LOT 10

82.46'

43'

EXISTING  
DWELLING  
#1839

30'  
15'  
32.2'  
EXISTING  
DWELLING  
#1837  
FRONT  
32.2'

9.2'

1.4'

31.0'

90.18'

JAMES ELINDA  
PERSING  
1839

LOT 10  
'SUPERIOR HEIGHTS'  
PB 7/120

VACANT

RONALD FUCHS  
PO BOX 95  
SHERWOOD MD  
21665  
(NO STREET ADDRESS)

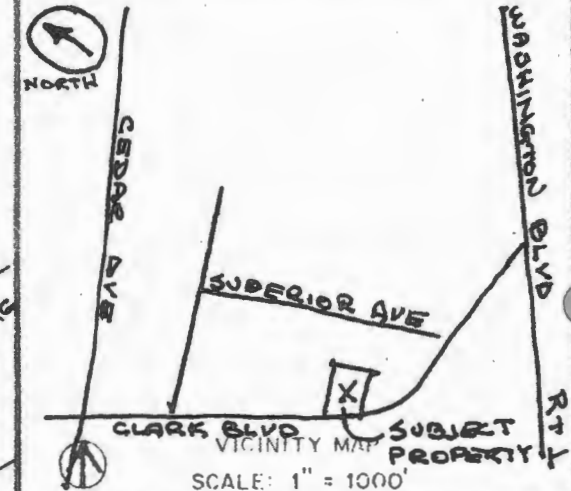
LOT 12  
'SUPERIOR HEIGHTS'  
PB 7/120

LOT 11

99.96'

228.9'±  
TO SUPERIOR AVE

CLARKE BOULEVARD  
45' R/W  
21' PAVING



## LOCATION INFORMATION

ELECTION DISTRICT 13  
COUNCILMANIC DISTRICT 1  
1"=200' SCALE MAP # 108C3  
ZONING DR 5.5  
LOT SIZE .214a. 9317 SQ. FT.  
ACREAGE SQUARE FEET

SEWER ☒ PUBLIC ☐ PRIVATE ☐  
WATER ☒ PUBLIC ☐ PRIVATE ☐

CHESAPEAKE BAY YES NO  
A ☐ ☒  
PLAIN ☐ ☒  
RTY/ ☐ ☒  
EARING

## PETITIONER'S

EXHIBIT NO. 1



NORTH

PREPARED BY RONALD W. FUCHS 6-28-10

SCALE OF DRAWINGS: 1" = 30'

ZONING OFFICE USE ONLY  
REVIEWED BY ITEM # CASE #

DL (i-w) 0001