

**IN RE: PETITION FOR SPECIAL HEARING *
AND VARIANCE**

W/Side of Ellenham Avenue, 240' S of the *
c/line of Joppa Road
9th Election District *
2nd Councilmanic District
(7924 Ellenham Avenue) *

BEFORE THE
OFFICE OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY

Eric Tietz, Nicole Tietz and Margaret Jones *
Petitioners

CASE NO. 2011-0370-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by Eric Tietz, Nicole Tietz and Margaret Jones, legal owners of the subject property. The Petition for Special Hearing was filed in accordance with Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to approve the construction of a detached structure "with all facilities of convenience." Variance relief is being requested from Section 400.1 of the B.C.Z.R. to permit a proposed detached accessory structure (studio) to be located on the side yard of the principal dwelling in lieu of the required rear. The subject property and requested relief are more fully described on the site plan, which was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the public hearing on this Petition was Eric and Nicole Tietz and Margaret Jones, legal owners of the subject property, and Mark Cavallaro, President of Marcus Paul Building and Development Group, LLC, who is assisting the Petitioners with the permitting process. Several citizens attended the hearing: Mr. and Mrs. Ford are the immediate neighbors of Petitioners, and Ms. Mountcastle is President of the Ruxton-Riderwood-Lake Roland Area Improvement Association (RRLRAIA). Both the Fords and Ms. Mountcastle objected to the relief sought in the Petitions, and as depicted on Exhibit 1, but as discussed below, an alternative proposal discussed at the hearing has for the most part ameliorated their concerns. The file

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Date

By

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23

reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

The Zoning Advisory Committee (ZAC) comments were made a part of the record of this case. Comments were received from the Office of Planning on July 26, 2011, as follows:

The Office of Planning does not oppose the requested special hearing and variance provided:

1. The accessory structure is not used for either living quarters or commercial purposes
2. The accessory building is constructed in accordance with the submitted elevation drawings.

No other Baltimore County agency submitted any substantive comments and/or concerns.

Testimony and evidence presented demonstrated that Ms. Jones is the mother of Nicole Tietz, and she is also listed on the deed and State Department of Assessments and Taxation (SDAT) records as an owner of the property. Petitioners stated that they were required to raze an aging garage when they purchased their home, and desire to construct an "in-law apartment" for Ms. Jones on basically the same "footprint." The structure would be 22' x 22'. The Fords objected to the placement of the proposed "apartment," which was essentially on the property boundary line at the northwest corner of the site. They feared it would look too large and imposing, and would also result in a lack of privacy.

A discussion then ensued, and I suggested Petitioners could incorporate their unimproved (and undersized) lot into the plan. The lot adjoins the main parcel on which their home is located, to the north. I explained that by doing so, they would be in essence "merging" the lots, and would therefore be unable to seek further development or density with respect to that parcel. The Petitioners were receptive to that idea, and the hearing was then adjourned to allow the neighbors and the community association to consider the new proposal.

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The Fords have now indicated they support the new proposal, and Ms. Mountcastle has indicated her association would remain "neutral." The alternate proposal (marked as Petitioners' Exhibit 2) reflects the accessory apartment will "straddle" the lot line between Parcels 1 and 2 (both owned by Petitioners), and under settled Maryland law those lots are therefore merged. One additional (and significant) development has occurred in the interim: enactment of Baltimore County Council Bill 49-11, concerning "accessory apartments." The bill is expressly retroactive to August 1, 2010, and I therefore find Petitioners can avail themselves of the benefits of that ordinance, though the relief granted herein shall be subject to the same conditions enumerated in Bill 49-11.

I find that the special hearing relief should be granted as the approval of this request will not adversely impact the health, safety or welfare of the neighborhood. The adjoining neighbors support the proposal, and Ms. Jones is not only an "in-law" but also an owner of the property.

As to the variance relief (to allow the accessory apartment to be located in the side yard), I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioners. The Petitioners are essentially seeking to replace the dilapidated garage they razed when they purchased the home, and that structure was also on the side yard of the principal dwelling. In addition, as shown on Petitioners' Exhibit 1, the principal dwelling essentially sits on the western property line boundary, and as such there is no "rear" yard in which to locate an accessory structure.

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

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By

meet the requirements of Section 307 of the B.C.Z.R, as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

Pursuant to the advertisement, posting of the subject property and public hearing on this Petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' special hearing and variance requests should be granted.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 13 day of September, 2011, that the Petitioners' request for Special Hearing relief, filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to approve the construction of a detached structure ("accessory apartment"), as depicted on Petitioners' Exhibit 2, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Variance request pursuant to Section 400.1 of the B.C.Z.R. to permit a proposed detached accessory apartment to be located on the side yard of the principal dwelling in lieu of the required rear, be and is hereby GRANTED, subject to the following:

1. Petitioners must file with the Department of Permits, Approvals and Inspections a Declaration of Understanding, which shall be recorded in the land records of Baltimore County.
2. The accessory apartment shall be utilized by only Margaret Jones or other immediate family members related to Petitioners by blood, marriage or adoption.
3. Petitioners must obtain a Use Permit and comply with the other procedural requirements set forth in Baltimore County Council Bill 49-11.
4. The accessory apartment to be located in the side yard of Petitioners' principal dwelling must comply with all setback requirements set forth in the B.C.Z.R.
5. Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the thirty (30) day Appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

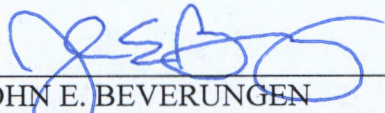
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Any appeal of this decision must be made within thirty (30) days of the date of this

Order.



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/dlw

ORDER RECEIVED FOR FILING

Date 9-13-11

By 103



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
TIMOTHY M. KOTROCO
Administrative Law Judges

September 26, 2011

George C. Ford
Megan M. Ford
7922 Ellenham Avenue
Towson, Maryland 21204

Re: **Motion for Reconsideration** - Petition for Special Hearing and Variance
Case No. 2011-0370-SPHA
Property: 7924 Ellenham Road

Dear Mr. and Mrs. Ford:

I am in receipt of your correspondence with attachments (sent via email) dated September 25, 2011, asking that I reconsider the September 13, 2011 Order issued in the above captioned matter. Though this correspondence is informal in nature, please consider this to be a ruling on the Motion for Reconsideration which you have filed.

Prior to issuing the September 13, 2011 Order, I had received comments from the Ruxton-Riderwood-Lake Roland Area Improvement Association (LLRAIA) and you, and reviewed and considered both. Both at the hearing and in your subsequent email, the primary concern you had related to the insufficient setbacks for the proposed structure, as well as its proximity to your lot and residence. In your email of September 9, 2011, you indicated you supported the Petitioners' alternative plan provided the "structure conforms to the setback requirements of Baltimore County." The proposal approved in the September 13, 2011 Order does so, and that Order did not grant the Petitioners any relief with respect to the setback requirements set forth in the Baltimore County Zoning Regulations (B.C.Z.R.).

Rather, the Variance relief granted pertained to the orientation of the accessory structure on the lot. Under the B.C.Z.R., "accessory buildings in residence zones ... shall be located only in the rear yard." B.C.Z.R. §400.1. As I noted in the Order, the Petitioners, in fact, have no "rear yard," given that their two-story dwelling (as you know) is situated extremely close to the lot line with your adjoining property. The Variance relief granted will allow the Petitioners to construct the accessory building in the side/front of their principal dwelling as depicted on the revised plan. While I am not able to provide legal advice as you have requested in your September 25, 2011 email, please be advised that you would be able to file an appeal of my

Office of Administrative Hearings

105 West Chesapeake Avenue, Suite 103 | Towson, Maryland 21204 | Phone 410-887-3868 | Fax 410-887-3468
www.baltimorecountymd.gov

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Date

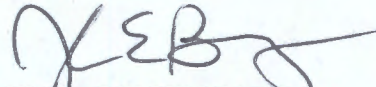
By

9-26-11
193

George C. Ford and Megan M. Ford
September 26, 2011
Page 2

decision with the County Board of Appeals, provided that the notice of appeal is filed within thirty (30) days after the final decision.

Sincerely,



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw

- c: Eric and Nicole Tietz, 7924 Ellenham Avenue, Towson, Maryland 21204
Mark Cavallaro, President, Marcus Paul Building and Development Group, LLC,
7 Hunt Club Court, Phoenix, MD 21131
Mr. and Mrs. George Ford, 7922 Ellenham Avenue, Towson, MD 21204
Ms. Kathy Mountcastle, President, Ruxton-Riderwood-Lake Roland Area Improvement
Association (RRLRAIA), 6515 Montrose Avenue, Baltimore, MD 21212

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Date

9-26-11

By

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KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
TIMOTHY M. KOTROCO
Administrative Law Judges

September 12, 2011

Eric and Nicole Tietz
7924 Ellenham Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing and Variance
Case No. 2011-0370-SPHA
Property: 7924 Ellenham Road

Dear Mr. and Mrs. Tietz:

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

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits, Approvals and Inspections. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

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:dlw
Enclosure

- c: Mark Cavallaro, President, Marcus Paul Building and Development Group, LLC,
7 Hunt Club Court, Phoenix, MD 21131
Mr. and Mrs. George Ford, 7922 Ellenham Avenue, Towson, MD 21204
Ms. Kathy Mountcastle, President, Ruxton-Riderwood-Lake Roland Area Improvement
Association (RRLRAIA), 6515 Montrose Avenue, Baltimore, MD 21212



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 7924 ELLENHAM AVENUE
which is presently zoned DR 3.5

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 Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

the construction of a detached structure with all facilities of convenience

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

* Legal Owner(s):

* ERIC TIETZ

Name - Type or Print

Signature

* NICOLE TIETZ

Name - Type or Print

Signature

7924 ELLENHAM AVENUE

Address

TOWSON, MD 21204

City

State

Telephone No.

410-296-4294

Zip Code

Representative to be Contacted:

MARY CAVALLARO

Name

7 HUNT CLUB CT 410.913.0834

Address

PHOENIX MD

City

State

Telephone No.

21131

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By K17

Date

6/27/11

REV 9/15/98

ORDER RECEIVED FOR FILING

Date

9-13-11

By

[Signature]

* MARGARET M. JONES

[Signature]



TAX. ACCO

0913200230

Petition for Variance

to the **Zoning Commissioner of Baltimore County**

for the property located at 7924 ELLENHAM AVE

which is presently zoned DR 3.5

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) 400.1 - to permit a proposed detached

accessory structure (studio) to be located on the side yard of the principal dwelling in lieu of the required rear

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 discussed 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

ORDER RECEIVED FOR FILING
9-13-11
100
By

Case No. 2011-0370-SPHA

REV 9/15/98

Reviewed By

* Legal Owner(s):

ERIC TIETZ

Name - Type or Print

Signature

* NICOLE TIETZ

Name - Type or Print

Signature

7924 ELLENHAM AVE 410-296-4294

Address

Telephone No.

TOWSON MD

21204

City

State

Zip Code

Representative to be Contacted:

MARK CAVALLARO

Name

7 HUNT CLUB CT

410-913-0834

Address

Telephone No.

PHOENIX MD

21131

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Date

* MARGARET M JONES

Zoning Description for 7924 Ellenham Avenue:

Beginning at a point on the west side of Ellenham Avenue Road which is 15 feet wide, more or less, at a distance of 240' +/- south of the centerline of the nearest improved intersecting street Joppa Road, which is 33 feet wide, more or less, as recorded in deed liber 16479 folio 002, thence running the following four (4) courses and distances:

1. North 85 degrees 30 minutes 00 seconds East 67.50 feet, thence
2. South 09 degrees 00 minutes 00 seconds West 180.00 feet, thence
3. North 66 degrees 30 minutes 00 seconds East 79.80 feet, thence
4. North 09 degrees 00 minutes 00 seconds East 43.00 feet, thence

Containing 10,846 S.F. or 0.250 Acres, more or less

Also known as 7924 Ellenham Avenue and located in the 9th Election District,
2nd Councilmanic District.

Item # 0370

~~06-11-58-A~~

**NOTICE OF ZONING
HEARING**

The Administrative Law Judges 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: # 2011-0370-SPHA

7924 Ellenham Avenue
W/side of Ellenham Avenue,
240 feet south of the centerline of Joppa Road
19th Election District
2nd Councilmanic District
Legal Owner(s): Eric & Nicole Tietz

Special Hearing: to permit the construction of a detached structure with all facilities of convenience.

Variance: to permit a proposed detached accessory structure (studio) to be located on the side yard of the principal dwelling in lieu of the required rear.

Hearing: Wednesday, August 10, 2011 at 10:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

ARNOLD JABLON, DIRECTOR
OF PERMITS, APPROVALS
AND INSPECTIONS FOR
BALTIMORE COUNTY

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.

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

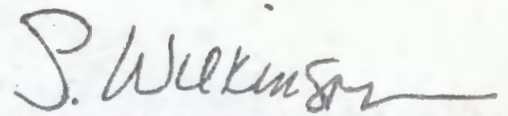
JT 7/706 July 26 282055

CERTIFICATE OF PUBLICATION

7/28/, 2011

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 7/26/, 2011.

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



LEGAL ADVERTISING

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 07/24/2011

Case Number: 2011-0370-SPHA

Petitioner / Developer: MR. & MRS. TIETZ~MARK CAVALLARO

Date of Hearing (Closing): AUGUST 10, 2011

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
7924 ELLENHAM AVENUE

The sign(s) were posted on: JULY 23, 2011



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 - 666 - 5366
(Telephone Number of Sign Poster)

TO: PATUXENT PUBLISHING COMPANY
Tuesday, August 26, 2011 Issue - Jeffersonian

Please forward billing to:

Margaret Jones
7924 Ellenham Avenue
Towson, MD 21204

410-296-4294

NOTICE OF ZONING HEARING

The Administrative Law Judges 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: 2011-0370-SPHA

7924 Ellenham Avenue

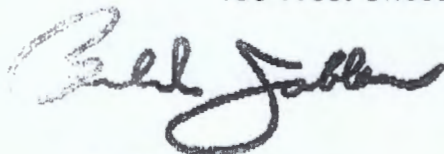
W/side of Ellenham Avenue, 240 feet south of the centerline of Joppa Road

9th Election District – 2nd Councilmanic District

Legal Owners: Eric & Nicole Tietz

Special Hearing to permit the construction of a detached structure with all facilities of convenience. Variance to permit a proposed detached accessory structure (studio) to be located on the side yard of the principal dwelling in lieu of the required rear.

Hearing: Wednesday, August 10, 2011 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon

Director of Permits, Approvals and Inspections 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.



KEVIN KAMENETZ
County Executive

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

July 19, 2011

NOTICE OF ZONING HEARING

The Administrative Law Judges 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: 2011-0370-SPHA

7924 Ellenham Avenue

W/side of Ellenham Avenue, 240 feet south of the centerline of Joppa Road

9th Election District – 2nd Councilmanic District

Legal Owners: Eric & Nicole Tietz

Special Hearing to permit the construction of a detached structure with all facilities of convenience. Variance to permit a proposed detached accessory structure (studio) to be located on the side yard of the principal dwelling in lieu of the required rear.

Hearing: Wednesday, August 10, 2011 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in dark ink, appearing to read "Arnold Jablon", is written over the printed name and title.

Arnold Jablon
Director

AJ:kl

C: Mr. & Mrs. Tietz, 7924 Ellenham Avenue, Towson 21204
Mark Cavallaro, 7 Hunt Club Court, Phoenix 21131

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JULY 26, 2011.

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.

(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
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: 2011-0370-SPHA

Petitioner: Margaret Jones

Address or Location: 7924 Ellenham Ave, Towson Md 21204

PLEASE FORWARD ADVERTISING BILL TO:

Name: Margaret Jones

Address: 7924 Ellenham Ave, Towson Md 21204

Telephone Number: 410-296-4294

Revised 2/17/11 DT



KEVIN KAMENETZ
County Executive

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

August 1, 2011

Eric and Nicole Tietz
7924 Ellenham Avenue
Towson, MD 21204

RE: Case Number 2011-0370-SPHA, 7924 Ellenham Avenue

Dear Mr. & Mrs. Tietz.,

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 27, 2011. 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.", is written over the typed name.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:mcn

Enclosures

c: People's Counsel
Mark Cavallaro, 7 Hunt Club Court, Phoenix, MD 21131

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: July 22, 2011

FROM: Andrea Van Arsdale
Director, Office of Planning

SUBJECT: 7924 Ellenham Avenue
INFORMATION:

RECEIVED

JUL 26 2011

Item Number: 11-370

OFFICE OF ADMINISTRATIVE HEARINGS

Petitioner: Eric & Nicole Tietz and Margaret Jones

Zoning: DR 3.5

Requested Action: Special Hearing and Variance

The property in question is located within the Ruxton Riderwood Lake Roland Design Review Panel area. The applicants also own the adjacent unimproved undersized lot to the north.

The petitioners propose to raze an existing accessory building 20'x20' and replace it with a new accessory structure (studio) 22'x22' in approximately the same location in the side yard. The applicant's representative provided architectural elevation drawings showing a bathroom, refrigerator and wet bar as part of the artist's studio.

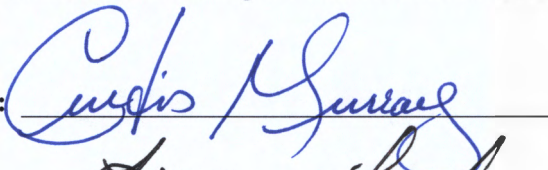
Due to the minor nature of the new construction, a design review panel meeting is not required.

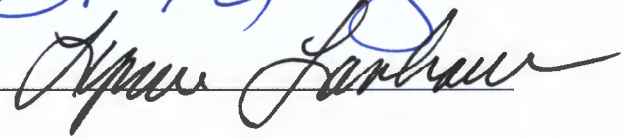
SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the requested special hearing and variance provided:

1. The accessory structure is not used for either living quarters or commercial purposes
2. The accessory building is constructed in accordance with the submitted elevation drawings.

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

Prepared by: 

Division Chief: 
JM/LL: CM

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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

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

DATE: July 20, 2011

SUBJECT: DEPS Comment for Zoning Item # 11-370-SPHA
Address 7924 Ellenham Avenue
(Tietz&Jones Property)

Zoning Advisory Committee Meeting of July 11, 2011.

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

Reviewer: *Jeff Livingston; Development Coordination*

RECEIVED

JUL 20 2011

OFFICE OF ADMINISTRATIVE HEARINGS

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For July 25, 2011
Item Nos. 2011-363, 370, 371, 372, 374
And 375.

DATE: July 18, 2011

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

DAK:CEN

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-07252011 -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: 7-15-11

Ms. Kristen Matthews
Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 109
Towson, Maryland 21204

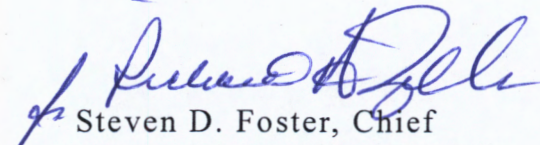
RE: Baltimore County
Item No. 2011-0370-SPHA.
Variance Special Hearing
Eric & Nicole Tietz and
Margaret Jones
7924 Ellenham Avenue

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. 2011-0370-SPHA.

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). Thank you for your cooperation.

Sincerely,


Steven D. Foster, Chief
Access Management Division

SDF/rz



KEVIN KAMENETZ
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

July 13, 2011

County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Zoning Review

Distribution Meeting of: **July 11, 2011**

Item No.:

Special Hearing: 2011-0370-SPHA.

Administrative Variance: 2011-0363A, 2011-371A-0372A, 2011-0374A.

Variance: 2011-0370-SPHA, 2011-0373A, 2011-0375A.

Comments:

The Baltimore County Fire Marshal's Office has no comments on the above case numbers at this time.

Don W. Muddiman, Inspector
Baltimore County Fire Marshal's Office
700 E. Joppa Road, 3RD Floor
Towson, Maryland 21286
Office: 410-887-4880
dmuddiman@baltimorecountymd.gov
cc: File

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
7924 Ellenham Avenue; W/S Ellenham Avenue,*		ADMINISTRATIVE LAW
240' S of c/line Joppa Road		
9 th Election & 2 nd Councilmanic Districts	*	JUDGE FOR
Legal Owner(s): Eric & Nicole Tietz		
& Margaret Jones	*	BALTIMORE COUNTY
Petitioner(s)	*	2011-370-SPH

* * * * *

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.

RECEIVED

JUL 07 2011

.....

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 8th day of July, 2011, a copy of the foregoing Entry of Appearance was mailed to Mark Cavallaro, 7 Hunt Club Court, Phoenix, Maryland 21131, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
TIMOTHY M. KOTROCO
Administrative Law Judges

September 26, 2011

George C. Ford
Megan M. Ford
7922 Ellenham Avenue
Towson, Maryland 21204

Re: Motion for Reconsideration - Petition for Special Hearing and Variance
Case No. 2011-0370-SPHA
Property: 7924 Ellenham Road

Dear Mr. and Mrs. Ford:

I am in receipt of your correspondence with attachments (sent via email) dated September 25, 2011, asking that I reconsider the September 13, 2011 Order issued in the above captioned matter. Though this correspondence is informal in nature, please consider this to be a ruling on the Motion for Reconsideration which you have filed.

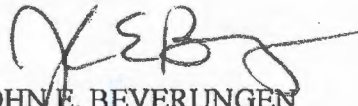
Prior to issuing the September 13, 2011 Order, I had received comments from the Ruxton-Riderwood-Lake Roland Area Improvement Association (LLRAIA) and you, and reviewed and considered both. Both at the hearing and in your subsequent email, the primary concern you had related to the insufficient setbacks for the proposed structure, as well as its proximity to your lot and residence. In your email of September 9, 2011, you indicated you supported the Petitioners' alternative plan provided the "structure conforms to the setback requirements of Baltimore County." The proposal approved in the September 13, 2011 Order does so, and that Order did not grant the Petitioners any relief with respect to the setback requirements set forth in the Baltimore County Zoning Regulations (B.C.Z.R.).

Rather, the Variance relief granted pertained to the orientation of the accessory structure on the lot. Under the B.C.Z.R., "accessory buildings in residence zones ... shall be located only in the rear yard." B.C.Z.R. §400.1. As I noted in the Order, the Petitioners, in fact, have no "rear yard," given that their two-story dwelling (as you know) is situated extremely close to the lot line with your adjoining property. The Variance relief granted will allow the Petitioners to construct the accessory building in the side/front of their principal dwelling as depicted on the revised plan. While I am not able to provide legal advice as you have requested in your September 25, 2011 email, please be advised that you would be able to file an appeal of my

George C. Ford and Megan M. Ford
September 26, 2011
Page 2

decision with the County Board of Appeals, provided that the notice of appeal is filed within thirty (30) days after the final decision.

Sincerely,



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw

- c: Eric and Nicole Tietz, 7924 Ellenham Avenue, Towson, Maryland 21204
Mark Cavallaro, President, Marcus Paul Building and Development Group, LLC,
7 Hunt Club Court, Phoenix, MD 21131
Mr. and Mrs. George Ford, 7922 Ellenham Avenue, Towson, MD 21204
Ms. Kathy Mountcastle, President, Ruxton-Riderwood-Lake Roland Area Improvement
Association (RRLRAIA), 6515 Montrose Avenue, Baltimore, MD 21212

Ford, Megan

TK
8-10-11
10am

From: Ruxton-Riderwood-Lake Roland Area Improvement Association <rrlraia@comcast.net>
Sent: Monday, August 01, 2011 4:29 PM
To: Ruxton-Riderwood-Lake Roland Area Improvement Association
Subject: Variance/Special Hearing Notice - 7924 Ellenham Avenue
Attachments: marg-fp.pdf

RECEIVED

Dear Neighbor:

AUG 09 2011

RE: 7924 Ellenham Avenue Case No. 2011-0370-SPHA

OFFICE OF ADMINISTRATIVE HEARINGS

Eric and Nicole Tietz and Margaret Jones, Owners

As a service to our residents, we attempt to notify you of development issues in your neighborhood. Mr. & Mrs. Tietz and Mrs. Jones have applied for a Variance to allow an accessory structure (studio in the location of the former garage) to be located on the side yard in lieu of the required rear and a Special Hearing to permit the construction of the structure to be used as a residence for Mrs. Jones. Attached are elevations that were submitted to the Baltimore County Office of Planning.

At this time, RRLRAIA has not taken a position to support or oppose the variance request, we are merely bringing it to your attention. If you wish further information, contact Zoning Review at 410-887-3391. You are also welcome to contact Mrs. Jones at 410-296-4294 if you have any questions about the plans.

The hearing will be held on Wednesday, August 10, at 11 a.m. in Room 105 of the Jefferson Building located at 105 West Chesapeake Avenue, Towson.

Peggy Squitieri

Ruxton-Riderwood-Lake Roland Area Improvement Association

RECEIVED

AUG 09 2011

August 9, 2011

To the Zoning Commissioner of Baltimore County, ~~Office~~ OF ADMINISTRATIVE HEARINGS

Please review these notes in preparation for the Request for Variance hearing, associated with the 7924 Ellenham Avenue property, scheduled for August 10, 2011 at 11:00 am. We are the adjacent neighbors who live at 7922 Ellenham Avenue. Below you will find a list of our concerns which we have forwarded to the Ruxton Riderwood Lake Roland Association.

1. After reviewing the documents, we now have a more complete understanding of the proposed building plans for 7924 Ellenham Avenue. The plans indicate living quarters that include a kitchen with sink, wet bar, and refrigerator; a bathroom complete with shower; a utility room complete with dryer and washing machine; and a wall that divides the main room into two separate areas with bathroom access off the rear, sub-divided area. This clearly designates living quarters, not simply a studio work space. Though our neighbors, Margaret Jones and Nicole and Eric Tietz alerted us verbally to their initial concept, they did not follow up with our request to see specific documents prior to filing for permit or variance. Had we more knowledge of their plans, we would most certainly have shared our views and opposition earlier.
2. One of several complicating factors is an issue of proximity to our property line. As it was explained to me recently via the Baltimore County Zoning Office, living quarters require a ten foot set back from adjoining properties. The plans, as submitted, are in conflict with these regulations.
3. There exist long-standing issues regarding compliance with 7924 Ellenham Avenue (e.g. the twenty-one-year-old addition does not conform to the 3-foot variance granted for the addition, as the cantilevered second story is significantly less than the required three foot set-back. In addition, the foundation of the northwest porch corner is on our property).
4. We have several questions about specific information listed on the Zoning Hearing Plan for Variance. These include: *private sewage* - the existing property is on a septic system and the application lists *public*, and, the application states the new structure will "replace existing garage"- approximately a year ago, the old garage was razed.
5. Since we ourselves were told by the Zoning Office that we could not make improvements on our non-conforming property, when planning our addition in 2001 (we had to tear down our garage), we are wondering why the Office would even consider our neighbor's recent request for a variance. The plan submitted on 6/27/11 does not indicate that the existing two-story dwelling at 7924 Ellenham Ave. is non-conforming.
6. Finally, the proposed plan indicates a one foot overhang on all four sides of the building that would result in the structure being only two feet from our property line. Considering the plan for two rear windows that would face our backyard, we are most concerned with the potential lack of privacy.

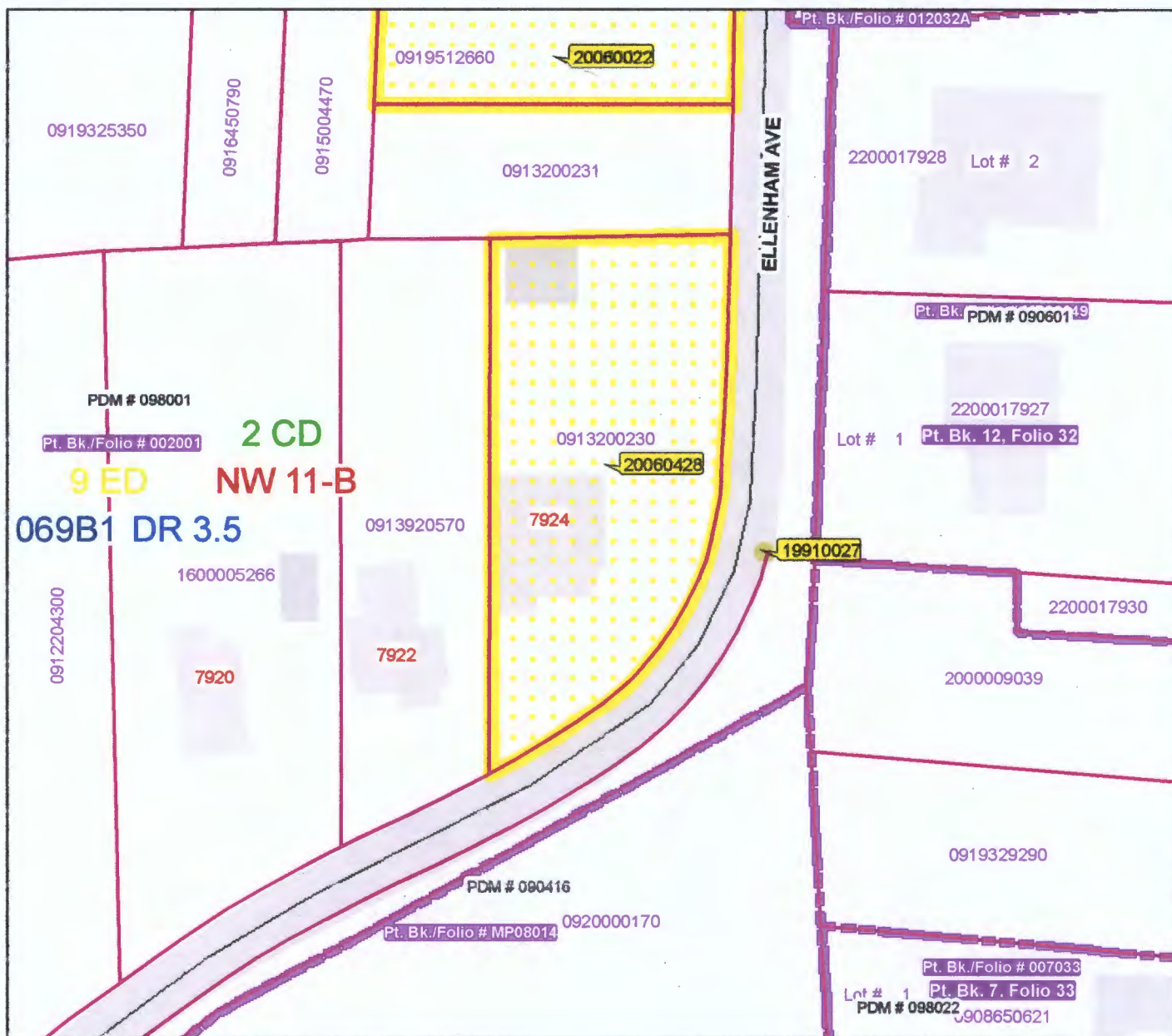
Considering the narrowness of our property (on both sides) we find ourselves in a position to protect our property value. For this reason, we feel the need to oppose the proposed variance and will appear at the hearing scheduled for August 10, 2011 at 11:00 am.

As Ruxton residents for twenty years, we are most appreciative of the support and guidance the Association offers. Again, I thank you for your time and advice. Please feel free to forward this message to RRLRAIA Board Members and to the Chairperson to the Zoning Committee.

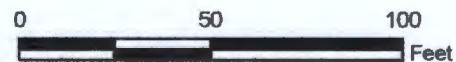
With appreciation,

Megan and Tim Ford
7922 Ellenham Avenue
Cell # 443-604-6578

7924 Ellenham Avenue

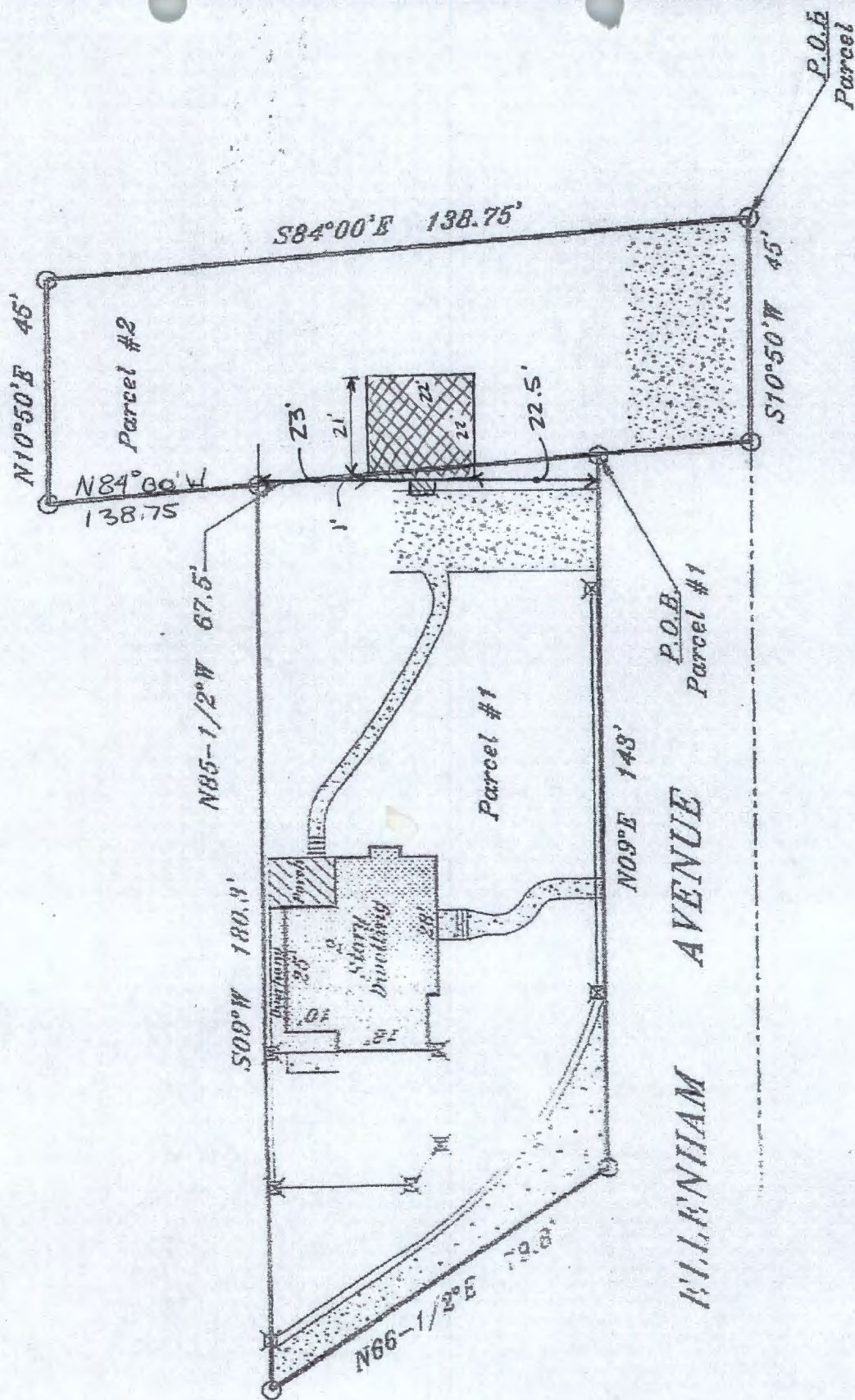


Publication Date: June 27, 2011
Publication Agency: Department of Permits & Development Management
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



1 inch = 50 feet

Item # 0370



PETITIONER'S

EXHIBIT NO.

2011-0370-SPHA

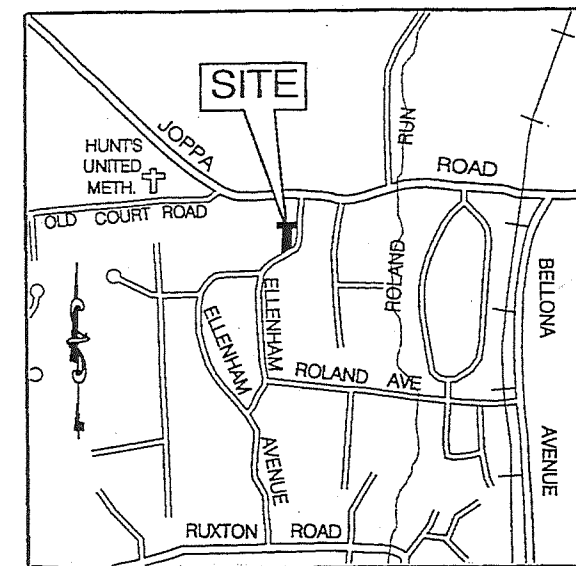
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ZONING HEARING PLAN FOR VARIANCE ☒ FOR SPECIAL HEARING ☒ (MARK TYPE REQUESTED WITH X)

ADDRESS 7924 Ellenham Ave OWNER(S) NAME(S) Eric Tietz, Nicole Tietz, Margaret Tietz

SUBDIVISION NAME LOT# BLOCK# SECTION#

PLAT BOOK# FOLIO# 10 DIGIT TAX# 0913200230 DEED REF.# 29649/00187



VICINITY MAP

ZONING MAP# 06981

SITE ZONED DR 3.5 DR 3.5

ELECTION DISTRICT 9th

COUNCIL DISTRICT 2nd

LOT AREA ACREAGE 0.25

OR SQUARE FEET 10,846

HISTORIC? No

IN CBCA? No

IN FLOOD PLAIN? No

UTILITIES? MARK WITH X

WATER IS:

PUBLIC ☒ PRIVATE

SEWER IS:

PUBLIC ☒ PRIVATE

PRIOR HEARING? Yes

IF SO GIVE CASE NUMBER

AND ORDER RESULT BELOW

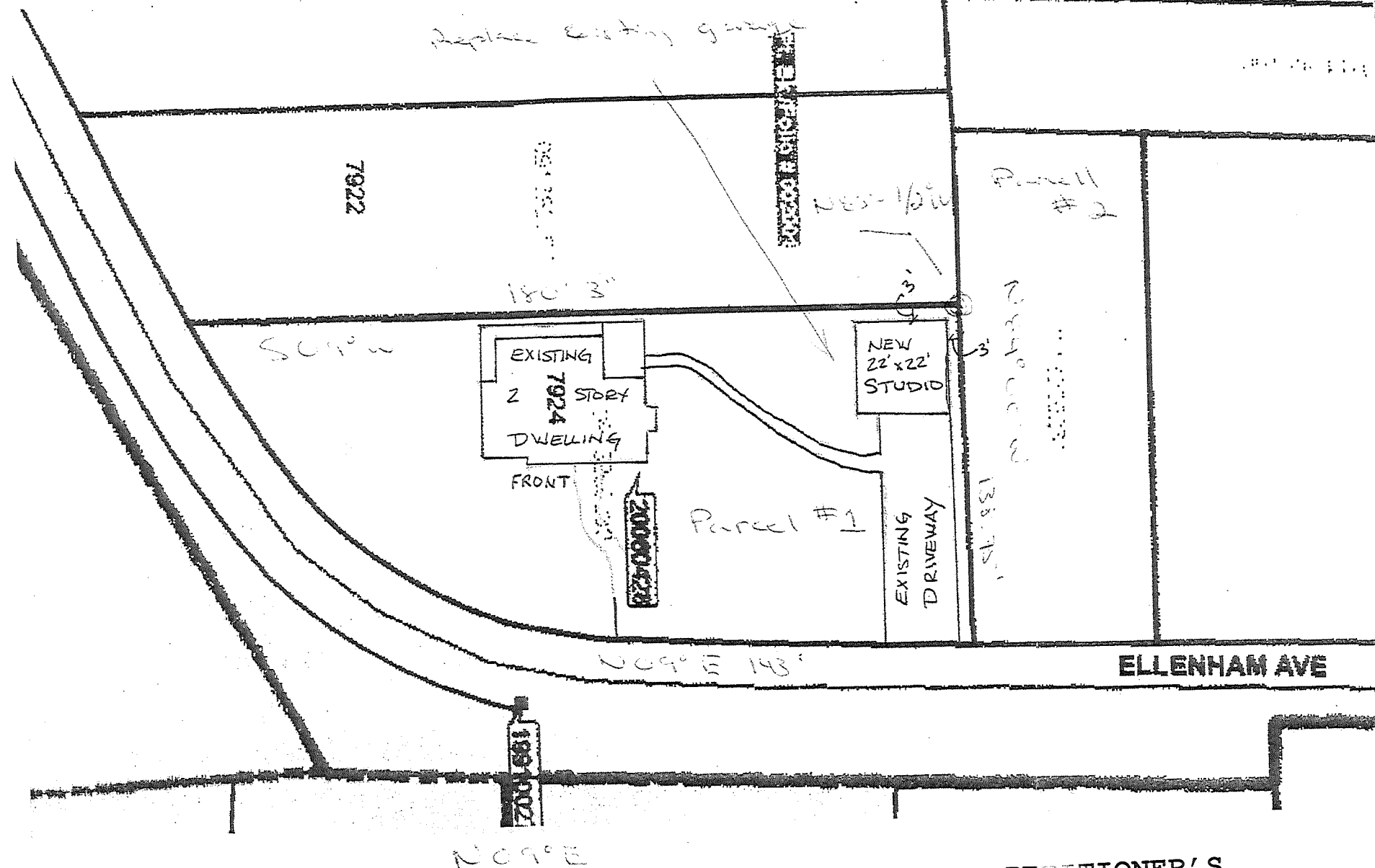
Case 2006-428A

(Withdrawn and

dismissed)

91-27-A

VIOLATION CASE INFO:



PETITIONER'S

EXHIBIT NO. 11

PLAN DRAWN BY

DATE 6/27/11 SCALE: 1 INCH = 1/30 FEET

#2011-0370-SPHA

RM