

IN RE: PETITION FOR ADMIN. VARIANCE *

S side of Waldman Avenue, 437.5' E of
the c/line of Murray Avenue *
15th Election District *
7th Councilmanic District *
(7317 Waldman Avenue) *

Amber M. and James S. Bertholdt, Jr. *
Petitioners *

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2012-0031-A

* * * * *

ORDER ON MOTION FOR RECONSIDERATION

This matter came before the Office of Administrative Hearings as a Variance request filed by Amber M. and James S. Bertholdt, Jr., property owners residing at 7317 Waldman Avenue. The Petitioners originally requested a variance to allow a side yard setback of 5 feet in lieu of the minimum required 7.5 feet for an open projection (deck) on the side of their dwelling at that address. The matter came for a hearing before me and by an Order, dated September 19, 2011, I approved the variance request to have a side yard setback of 5 feet in lieu of the minimum required 7.5 for the reasons stated in my Order of that date. It should be noted that at the original hearing before me, the adjacent property owners, Theresa and Keith Frey who reside at 7319 Waldman Avenue, appeared in opposition to the Petitioners' request. The Freys opposed the variance request and a dispute arose as to the actual distance the house owned by the Bertholdts was from their common property line. The Bertholdts believe that the house is situated 10 feet from their side property line while the Freys asserted at the hearing that the setback was actually 8.5 feet. Neither of the parties who appeared before me are surveyors and no property line surveyor appeared at the hearing.

By letter, dated September 21, 2011, Mr. and Mrs. Bertholdt requested that I modify my decision to allow them to construct a deck with the dimensions of 5' x 12'. The intent of my Order, dated September 19, 2011, was to allow a small deck to be constructed on the side of the Petitioners' dwelling. However, in no way should that small deck encroach any closer to the side property line than the 5 foot requested in the petition. Therefore, in order to clarify my Opinion

ORDER RECEIVED FOR FILING

Date

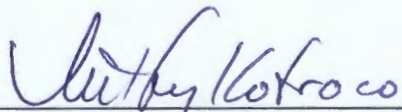
By

and Order, dated September 19, 2011, I shall further restate in this Order for Motion for Reconsideration that the Bertholdts are permitted to construct a deck on the side of their dwelling, which shall be no wider than 12 feet and no closer to the common property line shared with Mr. and Mrs. Frey than 5 feet. The dimensions of the deck remain unknown to me today in that I am not satisfied from the testimony and evidence presented as to the exact distance that the Bertholdts' house is situated from the side property line. The parties that appeared before me could not agree on that setback distance. Perhaps this is due to the fact that the property owners are unsure of the exact location of their common property line as each neighbor testified as to a different distance. In any event, these differences aside, I shall reiterate and make it clear that whatever size deck is constructed on the side of the Bertholdt dwelling, it shall be no wider than 12 feet in length and no closer to the common property line shared with Mr. and Mrs. Frey than 5 feet.

THEREFORE, IT IS ORDERED, by the Administrative Law Judge for Baltimore County, this 3rd day of October, 2011, that the Motion for Reconsideration shall be GRANTED for the purposes of further clarifying my original Opinion and Order, dated September 19, 2011.

The Petitioners, Mr. and Mrs. Bertholdt, shall be permitted to construct a deck on the side of their dwelling no wider than 12 feet and no closer to the property line than 5 feet.

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



TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/dlw

c: Amber M. and James S. Bertholdt, Jr., 7317 Waldman Avenue,
Sparrows Point, Maryland 21219
Theresa and Keith Frey, 7319 Waldman Avenue, Sparrows Point, MD 21219
Dorsey Smith, 2218 Maple Road, Sparrows Point, MD 21219

IN RE: PETITION FOR ADMIN. VARIANCE *

S side of Waldman Avenue, 437.5' E of
the c/line of Murray Avenue *
15th Election District *
7th Councilmanic District *
(7317 Waldman Avenue) *

Amber M. and James S. Bertholdt, Jr.
Petitioners *

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2012-0031-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owners of the subject property, Amber M. and James S. Bertholdt, Sr. for property located at 7317 Waldman Avenue. The variance request is from Section 301.1.A of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed open projection (deck) with side yard setbacks of 5 feet in lieu of the minimum required 7.5 feet. The subject property and requested relief are more particularly described on Petitioners' Exhibit 1.

This matter was originally filed as an Administrative Variance, with a closing date of August 29, 2011. On August 19, 2011, Theresa Frey (7319 Waldman Avenue) filed a Formal Demand for Hearing. The hearing was subsequently scheduled for Monday, September 12, 2011 at 10:00 AM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson, Maryland. In addition, a sign was posted at the property and an advertisement was published in *The Jeffersonian* newspaper, giving neighbors and interested citizens notice of the hearing.

Appearing at the public hearing in support of the variance request were Petitioners Amber and James Bertholdt. Appearing in opposition to the request were the next door neighbors, Keith and Theresa Frey.

Testimony and evidence revealed that the subject property consists of 0.229 acres, more or less, and is zoned D.R.5.5. The property is located on the south side of Waldman Avenue in the

ORDER RECEIVED FOR FILING

9-19-11
Date _____
By _____

Sparrows Point area of Baltimore County. It has a street address of 7317 Waldman Avenue. The owners of the property, Amber and James Bertholdt are interested in constructing a deck on the east side of their home adjacent to the property owned by Theresa and Keith Frey. The deck is proposed to extend 5 feet from the side of the house and would have a length of 12 feet. The site plan submitted into evidence indicates that there would remain a 5 foot setback indicating that the house is situated 10 feet from the common property line shared with the Freys. However at the hearing, the testimony presented by the Petitioners was that they were unaware of the exact distance their house sits from their side yard property line. Mr. and Mrs. Frey quickly testified that the distance is approximately 8 feet and not the 10 feet as represented on Petitioners' Exhibit 1, the site plan submitted into evidence. The Freys are opposed to the construction of this deck on the side of the Bertholdts' dwelling further testifying that the house which was constructed by the Petitioners already sits too close to their common property line.

The Petitioners submitted photographs into evidence showing this particular side of their dwelling where the deck is proposed to be located. It can be seen from those photographs that there currently exist a set of French doors that were a part of the original construction of the home built by the Bertholdt's approximately 18 months ago. It is obvious that these set of double doors were installed on this dwelling with a walk-out deck to be constructed at a later time. There even exists a ledger board underneath the double doors to allow for some sort of deck to be constructed in the future. It is at this time that the Petitioners seek to construct the deck but in order to do so need a variance.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Environmental Protection and Sustainability (DEPS) dated September 1, 2011. The subject property is located within the Chesapeake Bay Critical Area. According to B.C.Z.R. Section 500.14, no decision shall be

rendered on any petition for special exception, zoning variance, or zoning special hearing for a property within the Critical Area until the Department of Environmental Protection and Sustainability (DEPS) has provided written recommendations, which are as follows:

- “1. This waterfront property is located in a Limited Development Area within the Chesapeake Bay Critical Area. Development of this property with a deck with less sideyard setbacks must comply with a maximum lot coverage limit of 3,125 square feet with mitigation for the lot coverage amount over 25% and must meet a 15% tree cover requirement. If the deck is constructed with spaces between the boards and nothing placed beneath it, it can be considered pervious and not counted towards the lot coverage limit. Based on this, DEPS has determined that adverse impacts on water quality from the pollutants discharged from the proposed development can be minimized pursuant to Critical Area requirements.
2. The proposed development must comply with all LDA requirements, including the 15% afforestation requirement and CBCA lot coverage requirements, prior to building permit approval. Therefore the subject zoning petition will conserve fish, wildlife, and plant habitat.
3. The proposed development is permitted under the State-mandated Critical Area regulations provided that development is in compliance with all Critical Area requirements. Lot coverage on the property is currently within allowable limits and the requisite number of trees are on site. Compliance with the Critical Area requirements can allow the subject development to be consistent with established land use policy for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.”

After considering the testimony and evidence offered by the property owner as well as Mr.

and Mrs. Frey, I find it is appropriate to allow the construction of some type of deck on this side of the Petitioners dwelling. It was obvious from the time the house was constructed that a set of French doors were installed on the east side of the dwelling along with a ledger board for a deck to later be attached to the house. These French doors are outward swinging so it is apparent that it should be appropriate to issue a variance to allow a small deck to be constructed on the side of this dwelling. Given the testimony between these neighbors, I believe it is appropriate to allow a small

3-foot wide deck to be installed on the side of this house, which would provide enough room for the door to swing out and open. In essence, a 3-foot deck on the side of this home would still sit 5 feet from the side property line given that the house was originally constructed 8 feet off the property line. In essence, the Petitioners' request for variance to allow this deck to have a side yard setback of 5 feet should be granted, keeping in mind that a 5-foot side yard setback only allows the Petitioners to construct a deck that is 3 feet wide x 12 feet long. The site plan that was submitted along with the variance request is misleading in that leads one to believe there is a 10 foot side yard setback when, in reality, there only exists an 8 foot side yard setback.

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

THEREFORE, IT IS ORDERED, by the Administrative Law Judge for Baltimore County, this 19th day of September, 2011 that a Variance from Section 301.1.A of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed open projection (deck) with side yard setbacks of 5 feet in lieu of the minimum required 7.5 feet, be and is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioners shall comply with the Zoning Advisory Committee (ZAC) comments, dated September 1, 2011; a copy of which is attached hereto and made a part hereof.
3. The Petitioners shall be permitted to construct a deck that measures 3' x 12' on the side of their dwelling. This will maintain a 5' setback to the Frey's property line.

ORDER RECEIVED FOR FILING

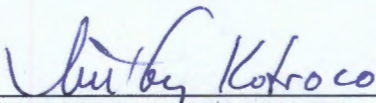
Date

9-19-11

By

193

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



TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/dlw

ORDER RECEIVED FOR FILING

Date

9-19-11

By

Q2

9-12-11

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

SEP 01 2011

OFFICE OF ADMINISTRATIVE HEARINGS



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

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

DATE: September 1, 2011

SUBJECT: DEPS Comment for Zoning Item # 12-031-A
Address 7317 Waldman Avenue
(Bertholdt Property)

Zoning Advisory Committee Meeting of August 8, 2011.

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

1. This waterfront property is located in a Limited Development Area within the Chesapeake Bay Critical Area. Development of this property with a deck with less sideyard setbacks must comply with a maximum lot coverage limit of 3,125 square feet with mitigation for the lot coverage amount over 25% and must meet a 15% tree cover requirement. If the deck is constructed with spaces between the boards and nothing placed beneath it, it can be considered pervious and not counted towards the lot coverage limit. Based on this, DEPS has determined that adverse impacts on water quality from the pollutants discharged from the proposed development can be minimized pursuant to Critical Area requirements.
2. The proposed development must comply with all LDA requirements, including the 15% afforestation requirement and CBCA lot coverage requirements, prior to building permit approval. Therefore the subject zoning petition will conserve fish, wildlife, and plant habitat.
3. The proposed development is permitted under the State-mandated Critical Area regulations provided that development is in compliance with all Critical Area requirements. Lot coverage on the property is currently within allowable limits and the requisite number of trees are on site. Compliance with the Critical Area requirements can allow the subject development to be consistent with established land use policy for development in the Chesapeake Bay

ORDER RECEIVED FOR FILING

9-19-11

Date

By

Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

Reviewer: *Regina Esslinger; Environmental Impact Review*

ORDER RECEIVED FOR FILING

Date 9-19-11

By [Signature]



KEVIN KAMENETZ
County Executive

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

September 19, 2011

Amber Bertholdt
James Bertholdt, Jr.
7317 Waldman Avenue
Sparrows Point, Maryland 21219

RE: **PETITION FOR VARIANCE**
S side of Waldman Avenue, 437.5' E of the c/line of Murray Avenue
(7317 Waldman Avenue)
15th Election District – 7th Election District
Amber M. and James S. Bertholdt, Jr.
CASE NO. 2012-0031-A

Dear Mr. and Mrs. Bertholdt:

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 dark ink, appearing to read "Timothy Kotroco", is written over a light-colored background.

TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK:dlw
Enclosure

c: Theresa and Keith Frey, 7319 Waldman Avenue, Sparrows Point, MD 21219
Dorsey Smith, 2218 Maple Road, Sparrows Point, MD 21219

CBA

Petition for Administrative Variance



to the Zoning Commissioner of Baltimore County for the property located at 7317 Waldman Avenue Sparrows Point MD 21219
which is presently zoned Baltimore County DR 5.5

Deed Reference: 29000/358 Tax Account # 1507830720

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)

301.1.A - to permit a proposed open projection (deck) to have a side yard setback of 5 feet in lieu of the required 7 1/2

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County.

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

I, or we, agree to pay expenses of above Administrative 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 _____

Legal Owner(s):

Amber Bertholdt

Name - Type or Print *Amber Bertholdt*
 Signature _____
James Bertholdt Jr.
 Name - Type or Print *James Bertholdt Jr.*
 Signature _____
7317 Waldman Avenue
 Address _____ Telephone No. *410-961-6377*
Sparrows Point MD 21219
 City _____ State _____ Zip Code _____

Representative to be Contacted:

Name _____
 Address _____ Telephone No. _____
 City _____ State _____ Zip Code _____

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this _____ day of _____, that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Case No. 2012-0031-A

Reviewed By *KTD* Date 8/1/11

Estimated Posting Date 8/14/11

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently own and reside at 7317 Waldman Ave
Address number Road or Street name

and that this address is the subject of this variance request as required by law.

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate the hardship or practical difficulty; attach an additional sheet if needed) When our home was built we had the footer boards and french doors placed

so that we could eventually have a small deck placed there. We are now ready to build a deck hoping to be the size of 6 x 12.

Thank you for your time.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, and the Affiant(s) desire to proceed with their variance request, they will be responsible for reposting the property and for payment of the advertising fees. They also understand that they may be required to provide additional information.

Amber Bertholdt

Signature

Amber Bertholdt

Name- print or type

James J. Bertholdt Jr.

Signature

James Bertholdt Jr.

Name- print or type

A Notary Public must complete the following section prior to the filing appointment.

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY, this 26 day of July, 2011, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared:

(Name Affiant(s) here): Amber Bertholdt, James Bertholdt Jr.
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Brenda Carol Schultz
Name of Notary Public

Commission expires

PLACE SEAL HERE:

**Notary Public
Brenda Carol Schultz
Baltimore County
State of Maryland
Expires 8-26-2014**

ZONING DESCRIPTION #7317 WALDMAN AVENUE

BEGINNING AT A POINT ON THE SOUTH SIDE OF WALDMAN AVENUE WHICH IS 30 FEET WIDE AT THE DISTANCE OF 437.5 FEET EAST OF THE CENTERLINE OF MURRAY AVENUE WHICH IS 25 FEET WIDE. BEING LOT NO. 130, SECTION B, IN THE SUBDIVISION OF "CHESAPEAKE TERRACE" AS RECORDED IN BALTIMORE COUNTY PLAT BOOK NO. 5, FOLIO NO. 36, CONTAINING 10,000 SQ. FT., MORE OR LESS. ALSO KNOWN AS #7317 WALDMAN AVENUE AND LOCATED IN THE 15TH ELECTION DISTRICT, 7TH COUNCILMANIC DISTRICT.



**MICHAEL V. MOSKUNAS
REG. NO. 21175**

**SITE RITE SURVEYING, INC.
200 E. JOPPA ROAD
SHELL BUILDING, ROOM 101
TOWSON, MD 21286**

Item #0031

**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: # 2012-0031-A
7317 Waldman Avenue
15th Election District
7th Councilmanic District
Legal Owner(s): Amber &
James Bertholdt

Variance: to permit a proposed open projection (deck) to have a side yard setback of 5 feet in lieu of the required 7 1/2 feet.

Hearing: Monday, September 12, 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.

8/25/11 Aug. 25 284823

CERTIFICATE OF PUBLICATION

8/25/2011

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 8/25/2011.

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

J. Wilkins

LEGAL ADVERTISING

CERTIFICATE OF POSTING
CERTIFICATE OF POSTING

RE:CASE NO: 2012-0031-A

PETITIONER/DEVELOPER _____

AMBER BERTHOLDT

DATE OF HEARING/CLOSING: _____

9/12/11

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 CERITFY UNDER THE PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S)REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE
PROPERTY AT 7317 WALDMAN AVE

August 24, 2011
MONTH, DAY, YEAR)

SINCERELY,

Martin Ogle 8/24/11
SIGNATURE OF SIGN POSTER AND DATE:

MARTIN OGLE
(SIGN POSTER)
60 CHELMSFORD COURT
BALTIMORE, MD 21220
(ADDRESS)
PHONE NUMBER: 443-629-3411





FORMAL DEMAND FOR HEARING

CASE NUMBER: 2012-0031-1

Address: 7317 Waldman Ave
Sparrows Pt, MD 21219

Petitioner(s): James + Amber
Bertholdt

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I/We Theresa and Keith Frey
Name - Type or Print

() Legal Owner OR () Resident of

7319 Waldman Ave
Address

Sparrows Pt, MD 21219
City State Zip Code

410-340-5633
Telephone Number

which is located approximately 8 ft feet from the
property, which is the subject of the above petition, **do hereby**
formally demand that a public hearing be set in this matter.

**ATTACHED IS THE REQUIRED PROCESSING FEE FOR THIS
DEMAND.**

Theresa Frey 8-19-2011
Signature Date

Signature
Revised 9/18/98 - wcr/scj

Date

CERTIFICATE OF POSTING

RE: Case No 2012-0031-A

Petitioner/Developer AMBER
BERTHOLDT

Date Of Hearing/Closing: 8/29/11

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

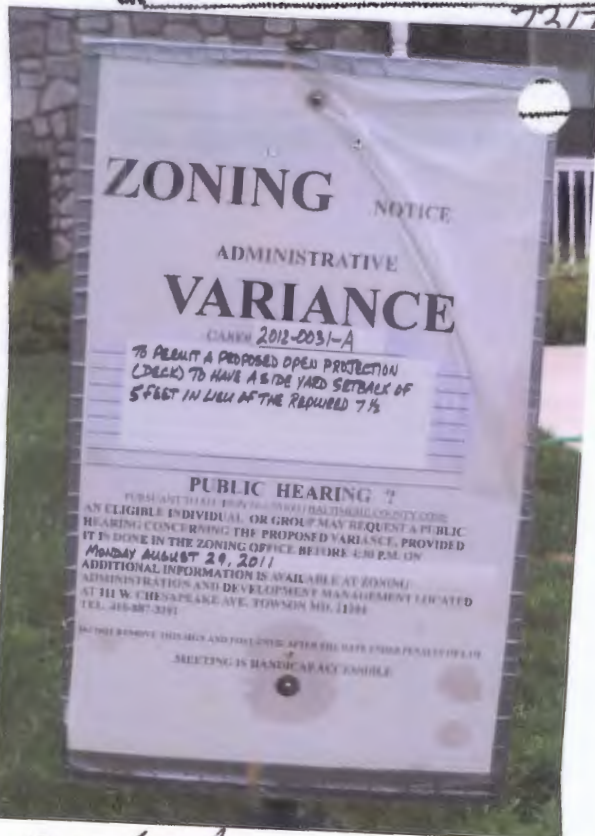
7317 WALDMAN AVE.

August 13, 2011

Month, Day, Year
Sincerely,

Martin Ogle 8/13/11
Signature of Sign Poster and Date

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



Martin Ogle 8/13/11

TO: PATUXENT PUBLISHING COMPANY
Thursday, August 25, 2011 Issue - Jeffersonian

Please forward billing to:

Mr. & Mrs. Bertholdt
7317 Waldman Avenue
Sparrows Point, MD 21219

410-961-5377

NOTICE OF ZONING HEARING

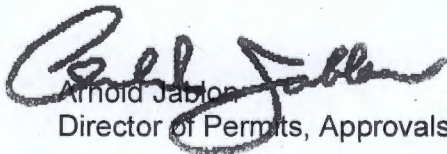
The Administrative Law Judges of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2012-0031-A

7317 Waldman Avenue
15th Election District – 7th Councilmanic District
Legal Owners: Amber & James Bertholdt

Variance to permit a proposed open projection (deck) to have a side yard setback of 5 feet in lieu of the required 7 ½ feet.

Hearing: Monday, September 12, 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 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.



KEVIN KAMENETZ
County Executive

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

August 22, 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: 2012-0031-A

7317 Waldman Avenue
15th Election District – 7th Councilmanic District
Legal Owners: Amber & James Bertholdt

Variance to permit a proposed open projection (deck) to have a side yard setback of 5 feet in lieu of the required 7 ½ feet.

Hearing: Monday, September 12, 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 a horizontal line.

Arnold Jablon
Director

AJ:kl

C: Mr. & Mrs. Bertholdt, 7317 Waldman Avenue, Sparrows Point 21219
Mr. & Mrs. Frey, 7319 Waldman Avenue, Sparrows Point 21219

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, AUGUST 27, 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/neighbor 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: 2012-0031-A
Petitioner: AMBER - JANE'S BERTHOLET
Address or Location: 7317 WALDMAN AVE

PLEASE FORWARD ADVERTISING BILL TO:

Name: AMER. JANE'S BERTHOLET
Address: 7317 WALDMAN AVE
BALTIMORE, M.D. 21219
Telephone Number: 410 961-5377

BALTIMORE COUNTY DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2012- 0031 -A Address 7317 Waldman Ave
Contact Person: David Duvall Phone Number: 410-887-3391
Planner, Please Print Your Name
Filing Date: 8/1/11 Posting Date: 8/14/11 Closing Date: 8/29/11

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

- POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
- DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
- ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification, usually within 10 days of the closing date if all County agencies' comments are received, as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
- POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 2012- 0031 -A Address 7317 Waldman Ave
Petitioner's Name Amber Bertholdt Telephone 410 961-6377
Posting Date: 8/14/11 Closing Date: 8/29/11
Wording for Sign: To Permit a proposed open projection (deck) to have a side yard setback of 5 feet in lieu of the required 7 1/2

Revised 7/06/11



KEVIN KAMENETZ
County Executive

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

August 19 2011

Yorkdale Limited Partnership
2328 W. Joppa Road, Suite 200
Towson, MD 212093-4623

RE: Case Number 2012-0023-A, 7801 York Road

Dear To Whom It May Concern,

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on July 28, 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
Adam D. Baker, Whiteford, Taylor & Preston, LLP, One W. Pennsylvania Avenue Suite 300,
Towson, MD 21204-4515

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



Beverley K. Swaim-Staley, *Secretary*
Darrell B. Mobley, *Acting Administrator*

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 8-1-11

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

RE: Baltimore County
Item No. 2012-0023-A
Variance -
York Data Limited Partnership
2328 W. Joppa Road Suite 200

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. 2012-0023-A.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Steven D. Foster".

Steven D. Foster, Chief
Access Management Division

SDF/rz

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

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

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For August 15, 2011
Item Nos. 2012-020, 021, 023, 024
And 025

DATE: August 9, 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-08152011 -NO COMMENTS.doc

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



9-12-11
RECEIVED

SEP 01 2011

OFFICE OF ADMINISTRATIVE HEARINGS

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

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

DATE: September 1, 2011

SUBJECT: DEPS Comment for Zoning Item # 12-031-A
Address 7317 Waldman Avenue
(Bertholdt Property)

Zoning Advisory Committee Meeting of August 8, 2011.

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

1. This waterfront property is located in a Limited Development Area within the Chesapeake Bay Critical Area. Development of this property with a deck with less sideyard setbacks must comply with a maximum lot coverage limit of 3,125 square feet with mitigation for the lot coverage amount over 25% and must meet a 15% tree cover requirement. If the deck is constructed with spaces between the boards and nothing placed beneath it, it can be considered pervious and not counted towards the lot coverage limit. Based on this, DEPS has determined that adverse impacts on water quality from the pollutants discharged from the proposed development can be minimized pursuant to Critical Area requirements.
2. The proposed development must comply with all LDA requirements, including the 15% afforestation requirement and CBCA lot coverage requirements, prior to building permit approval. Therefore the subject zoning petition will conserve fish, wildlife, and plant habitat.
3. The proposed development is permitted under the State-mandated Critical Area regulations provided that development is in compliance with all Critical Area requirements. Lot coverage on the property is currently within allowable limits and the requisite number of trees are on site. Compliance with the Critical Area requirements can allow the subject development to be consistent with established land use policy for development in the Chesapeake Bay

Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

Reviewer: *Regina Esslinger; Environmental Impact Review*

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



Beverley K. Swaim-Staley, Secretary
Darrell B. Mobley, Acting Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 8-9-11

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

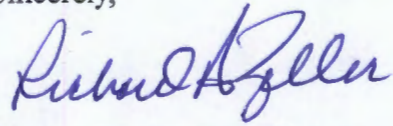
RE: Baltimore County
Item No. 2012-0031-A
Administrative Variance
Amber & James Bertholdt
7317 Waldman Avenue

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. 2012-0031-A.

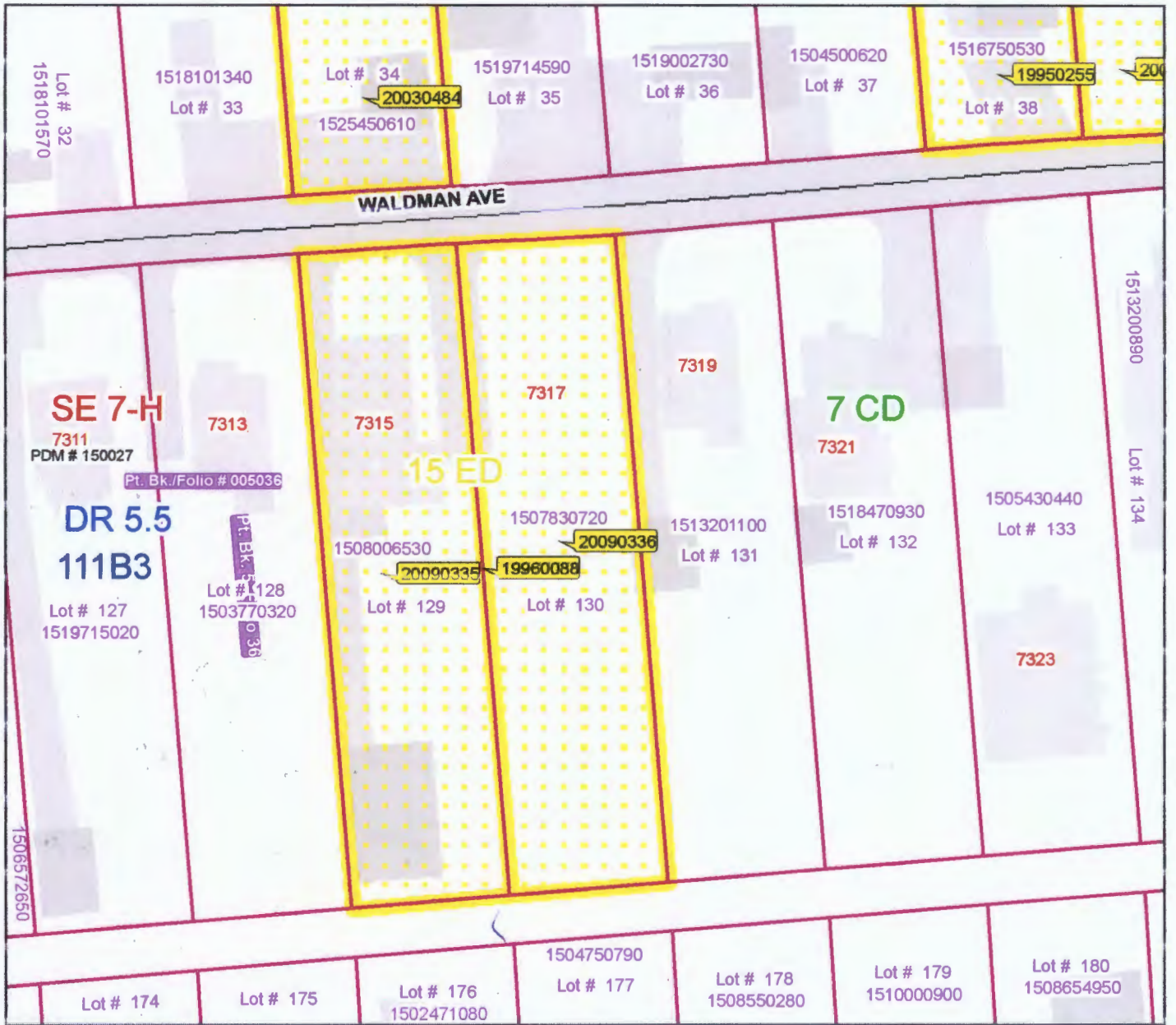
Should you have any questions regarding this matter, please contact Richard Zeller at 410-545-5598 or 1-800-876-4742 extension 5598. Also, you may E-mail him at (rzeller@sha.state.md.us). Thank you for your cooperation.

Sincerely,


for Steven D. Foster, Chief
Access Management Division

SDF/rz

7317 Waldman Avenue



Publication Date: August 01, 2011
Publication Agency: Department of Permits & Development Management
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



A horizontal scale bar with markings at 0, 50, and 100. The word "Feet" is written at the right end of the bar.

1 inch = 50 feet

Item #0031



FRONT DOOR 36" x 38" rough opening
 BAY WINDOW 36" x 38"

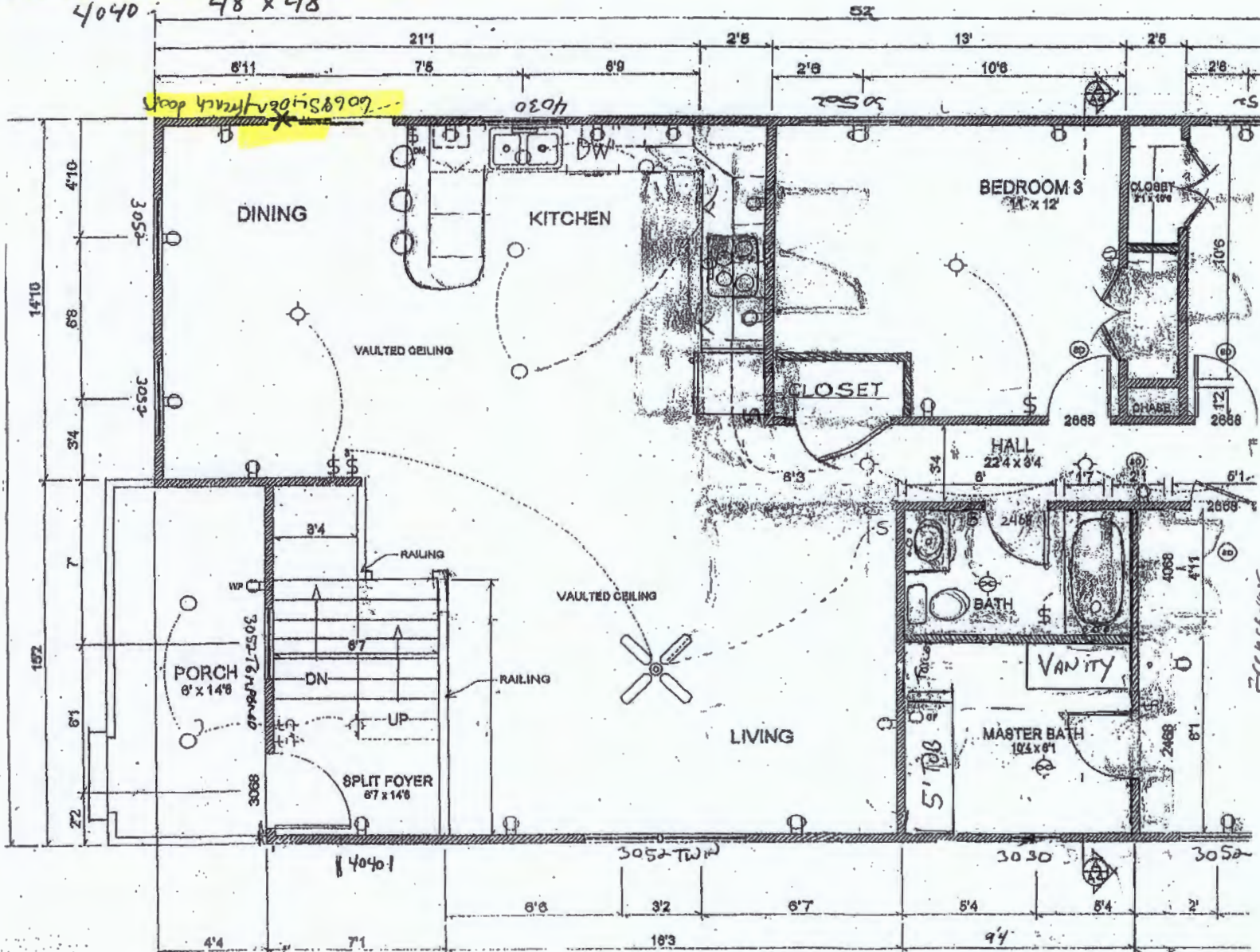
3052 = 36 1/4 x 62 1/2

3052 TWIN = 72 x 62 1/2

3030 = 36 1/4 x 36 1/2

4030 = 48 1/4 x 35 1/2

1022 6068 = 71 1/2 x 80 - French doors
 4040 = 48 x 48



FIRST FLOOR PLAN

PETITIONER'S

EXHIBIT NO. 2

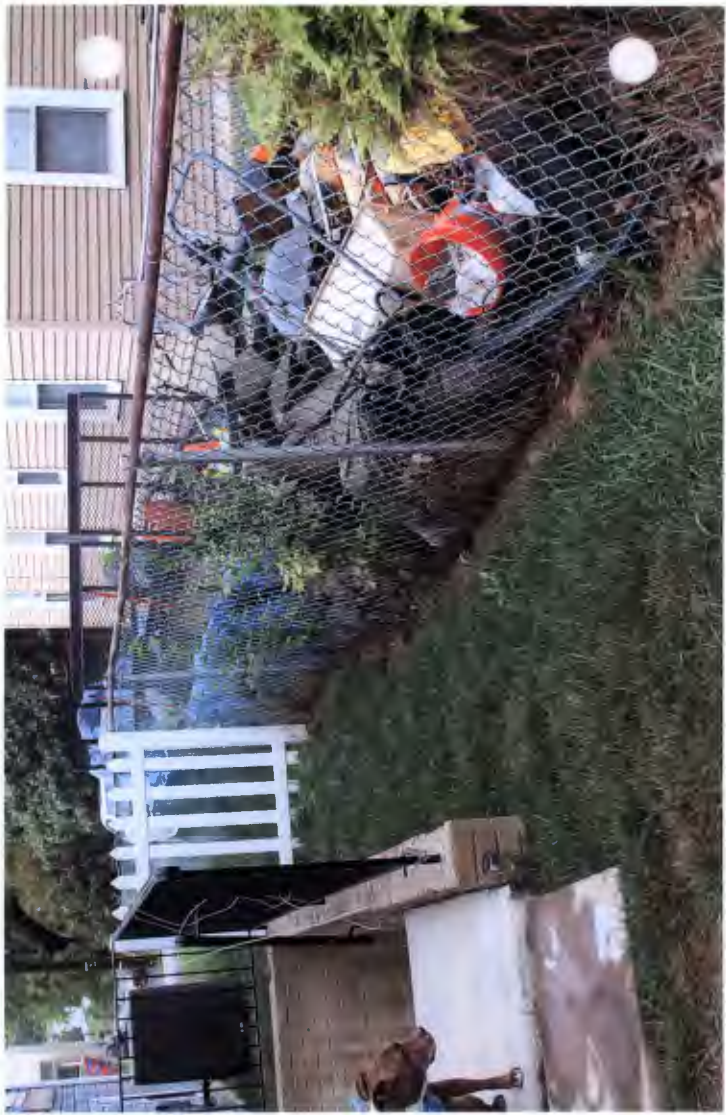


PETITIONER' S
EXHIBIT NO. 3



08-07-11 03:47:57





MEMORANDUM

TO: File

FROM: Debbie Wiley, Administrative Legal Secretary *DW*
Office of Administrative Hearings

DATE: November 1, 2011

SUBJECT: Case No. 2012-0031-A- (Appeal from Motion for Reconsideration)

Certified mail was received today from Keith and Theresa Frey requesting to appeal Judge Kotroco's Opinion and Order, dated October 3, 2011; however, a check in the amount of \$265 was not enclosed. Kristen Lewis was contacted to retrieve from the case file a contact phone number.

Upon receipt of phone number, I contacted Mrs. Frey (410.340.5633) and informed her that a check in the amount of \$265 should accompany her appeal, and that the 30-day appeal period is fast-approaching (Nov. 2nd). Mrs. Frey was not aware of the appeal fee and indicated she'd check with her husband about their intent and get back to me.

UPDATE:

Received telephone response from Mrs. Frey (11/1 @ 2:55 PM) that she and her husband do not intend to appeal because of the phenomenal appeal fee.

Both the memo and letter will be returned to the Office of Zoning Review for inclusion in the case file.

9/12/11 hearing
9/19/11 order

September 21, 2011

Office of Administrative Hearings
Attn: Mr. Timothy M. Kotroco
Administrative Law Judge
Jefferson Building
105 W. Chesapeake Ave Ste. 103
Baltimore, MD 21204

RECEIVED

SEP 26 2011

OFFICE OF ADMINISTRATIVE HEARINGS

Re: Case # 2012-0031-A

Dear Mr. Kotroco,

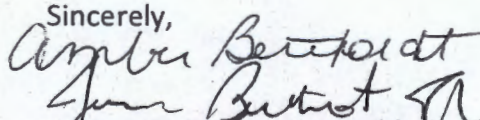
We are in receipt of the zoning decision rendered in the above referred case. Where we are quite thankful for your favorable decision and the timely manner in which you granted our request, we are writing to **request a re-consideration**, for specific language contained in the order.

We have enclosed a copy of the boundary survey, house stake out field notes and foundation certification prepared by Site-Rite Surveying, Inc. These documents clearly support the dimensions shown on the plan submitted with the Administrative Variance Petition. Therefore, the plan is not misleading and the 8ft reference stated by the adjacent property owners, Theresa and Keith Frey, is erroneous. (Where we can respect the approximate distance provided by the Frey's but they are not qualified surveyors.)

Therefore, we feel the original request of 5x12 deck is in keeping with your approved 5ft side yard setback. We ask that you reconsider the language pertaining to the actual 10ft side setback and the size of the deck (5ftx12ft) and amend the approval order.

Again, thank you for your time on this matter.

Sincerely,


Amber and James Bertholdt, Jr.

Enclosures: Copy of Boundary Survey, House-Stake out field notes and Foundation Certification

CC: Theresa and Keith Frey; 7319 Waldman Ave Sparrows Point, MD 21219
Dorsey Smith; 2218 Maple Rd Sparrows Point, MD 21219



Bernadette L. Moskunus

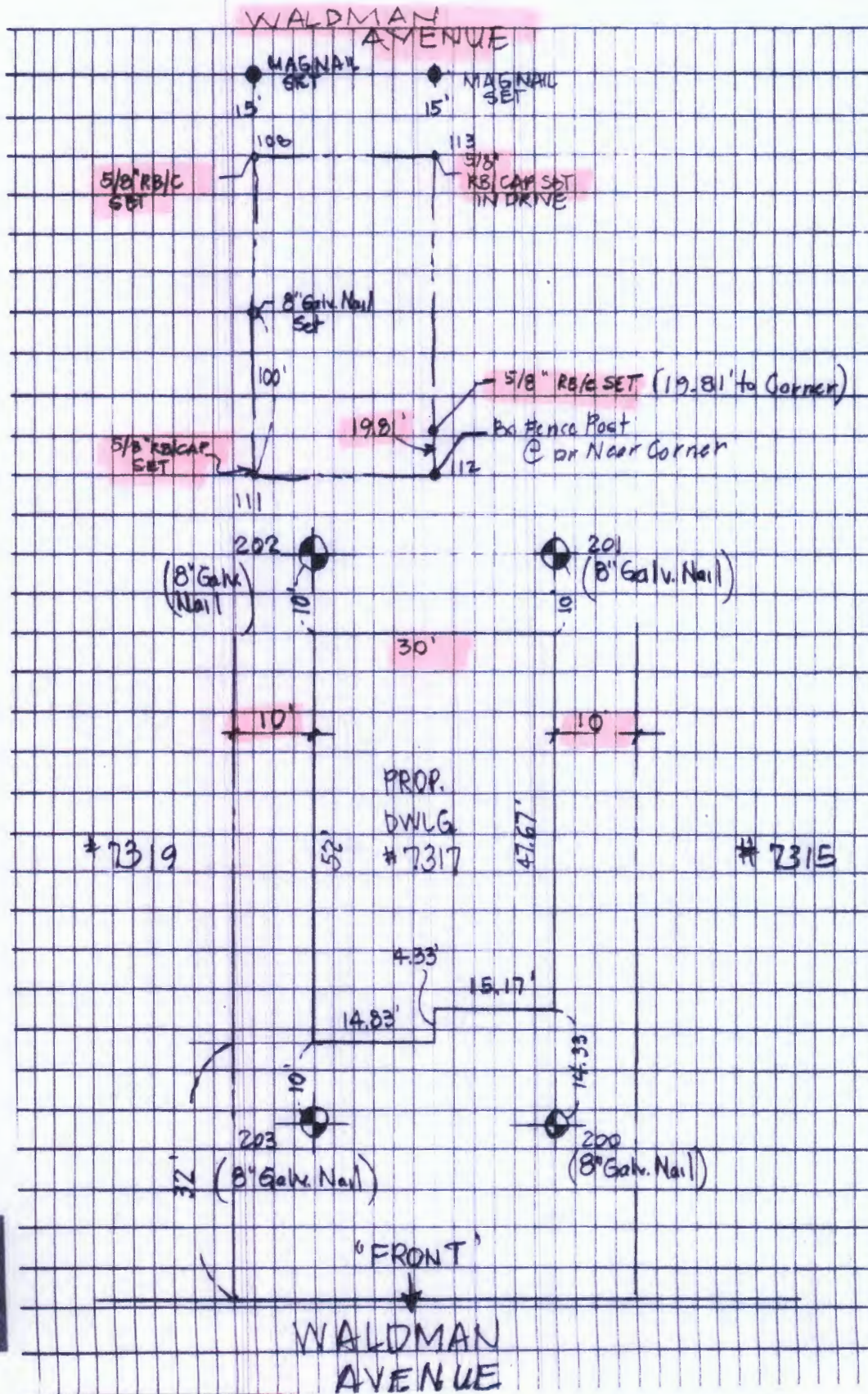
Vice President

100 E. Apple Road
Shelburne, Suite 101
Windsor, VT 05075

410.828.9060

410.828.9066

siteriteinc@aol.com



October 26, 2011

Office of Administrative Hearings
Attn: Mr. Timothy M. Kotroco
Administrative Law Judge
Jefferson Building
105 W. Chesapeake Ave. Ste. 103
Baltimore, MD 21204

TK 9/12/11
RECEIVED

NOV 01 2011

OFFICE OF ADMINISTRATIVE HEARINGS

Re: Case 2012-0031- A

Dear Mr. Kotroco,

We are writing in response to your order on motion for reconsideration.

We are opposed to the residents at 7317 Waldman Avenue building a 5 foot deck. The Bertholdt's applied for and were previously granted a variance. The variance is Case # 2009-0336-A, where the Bertholdt's were granted a variance to build on a lot that was only 50 feet instead of 55 feet. The law states that there is to be a 7.5 foot setback for an open projection deck. They should not be allowed to get another variance in addition to the first variance that they were already granted. Therefore, we would like to appeal your decision to allow the adjacent property holders to construct a deck with a setback less than what the law dictates.

There is plenty of room for the homeowners to construct a deck on the rear of their home with no interference to their neighbor's personal space. They should not be allowed to build a deck merely because their builder put a door in a certain place on their house. The effort and cost to enclose this door, sheetrock, and paint would be equivalent to the effort and cost to build this deck. It was the builder's and homeowner's responsibility to ensure proper code of law would be followed before making a plan and then constructing a home.

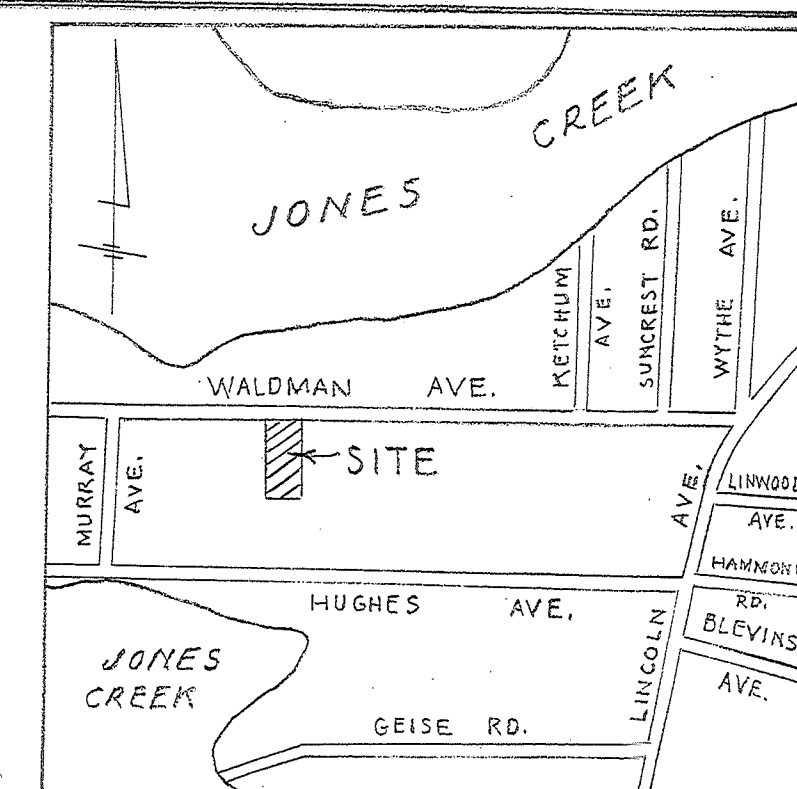
We would like to appeal the decision for the Bertholdt's to be allowed a setback of 5 feet in lieu of the required 7.5 feet. The setback should remain at 7.5 feet as the law states.

Thank you for your time.

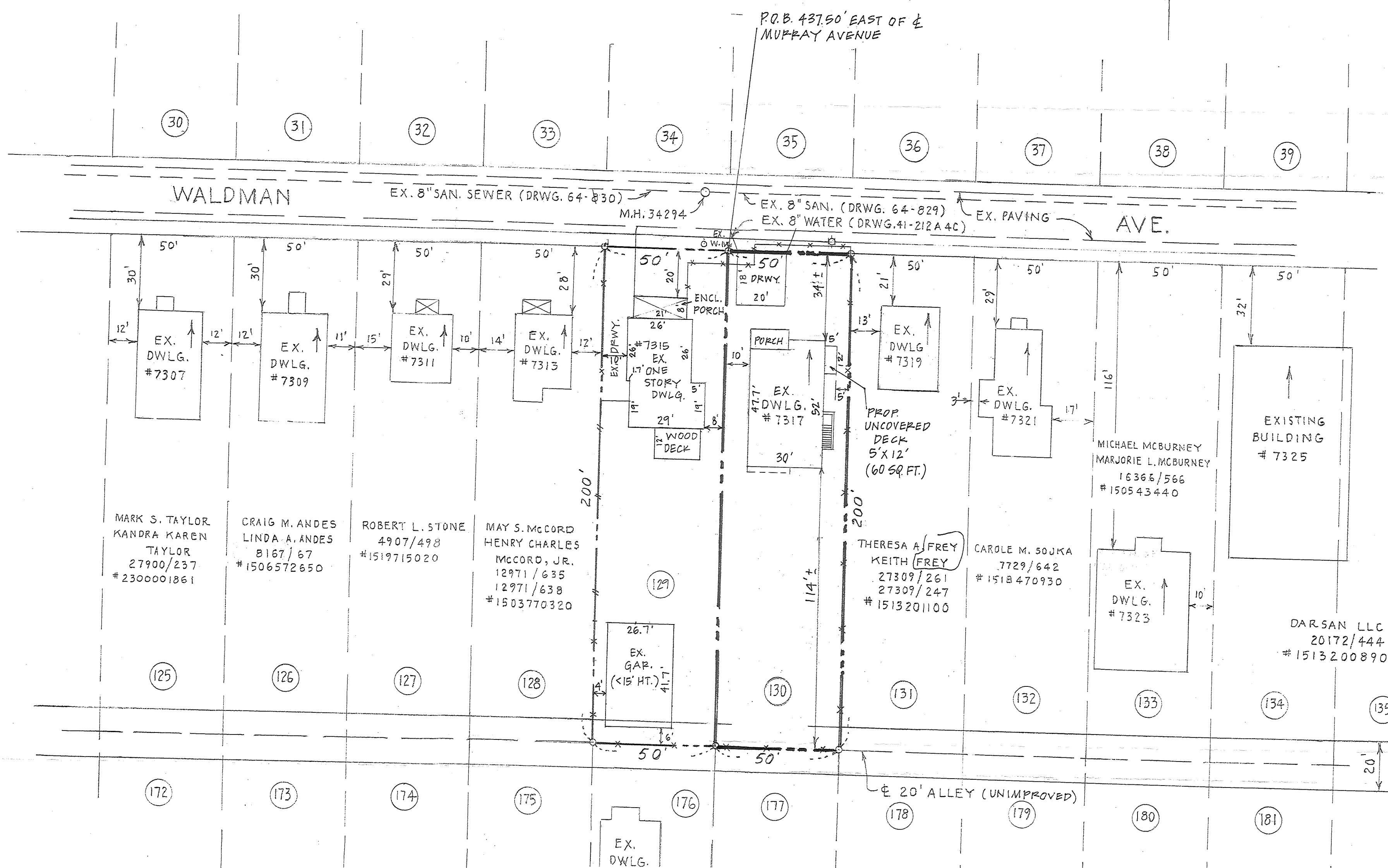
Sincerely,

Keith Frey Theresa Frey
Keith and Theresa Frey

CC: Amber and James Bertholdt; 7317 Waldman Avenue Sparrows Point, MD 21219



VICINITY MAP
SCALE: 1"=500'



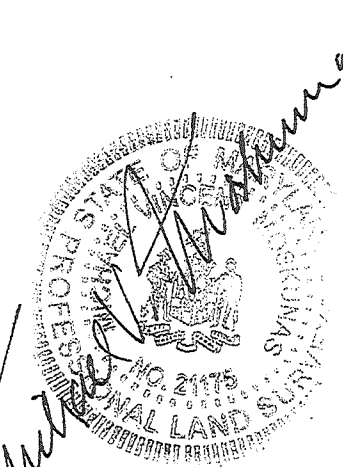
PETITIONER'S
EXHIBIT NO. 1

OWNER: Amber and James Bertholdt
7317 Waldman Avenue
Sparrows Point, MD 21219
410-550-8483

GENERAL NOTES:

- EXISTING ZONING: D.R.5.5 (111B3)
- LOT AREA: 10,000 S.F. / 0.229 AC+/-
- PROPERTY HAS PUBLIC WATER AND SEWER
- NOT LOCATED IN A 100 YEAR FLOOD PLAIN AREA
- NOT LOCATED IN AN HISTORIC AREA
- LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA (LDA)
- LOT OF RECORD SINCE JULY 1919 (RECORDED PLAT)
- EXISTING USE: SINGLE FAMILY DWELLING
- PROPOSED USE: SFD W/ PROPOSED SIDE DECK
- EXISTING LOT COVERAGE: 2090 SQ. FT
- ALLOWABLE LOT COVERAGE (25%)= 2500 SQ. FT (UP TO 31.25%=3125 SQ.FT)
- PRIOR ZONING HEARING CASE NO. 2009-0336-A GRANTED TO PERMIT A PROPOSED DWELLING WITH THE LOT WIDTH OF 50' IN LIEU OF THE REQUIRED 55'
- COMMUNITY PANEL NO. 2400100510F ZONE: "X" EFFECTIVE DATE: SEPTEMBER 26, 2008

PLAN TO ACCOMPANY PETITION FOR
ADMINISTRATIVE VARIANCE
"BERTHOLDT PROPERTY"
#7317 WALDMAN AVENUE
LOT NO. 130
"CHESAPEAKE TERRACE" 5/36
TAX MAP: 111 GRID: 16 PARCEL: 128
TAX ACCT. NO. 1507830720
DEED REF.: 29000/358
ELECTION DISTRICT NO. 15
COUNCILMANIC DISTRICT NO. 7
BALTIMORE COUNTY, MD
SCALE: 1"=30'
JULY 26, 2011
JOB NO. 9797



site rite SURVEYING, INC.
200 E. JOPPA ROAD RM. 101
TOWSON, MARYLAND 21286
PHONE: 410-828-9060
FAX: 410-828-9066