

IN RE: PETITION FOR VARIANCE

SE/side of Blackhead Road, 130' SW
of the c/line of Mallard Road
15th Election District
6th Council District
(6619-6621 Blackhead Road)

Catherine M. Letke
Petitioner

BEFORE THE
OFFICE OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2012-0033-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of a Petition for Variance filed by the legal owner of the property, Catherine M. Letke. The Petitioner is requesting Variance relief from Section 1A01.3.B.3 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a 51-foot front setback from the centerline of a street, in lieu of the 75-foot minimum required. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the public hearing in support of the variance request was Petitioner Catherine M. Letke and James D. Grammer with McKee and Associates, Inc., the consulting firm who prepared the site plan. The file reveals that the Petition was properly advertised and the site was properly posted as required by the B.C.Z.R. There were no Protestants or other interested persons in attendance, and the Petitioner indicated her neighbors were strongly supportive of her request.

Testimony and evidence offered revealed that the subject property is zoned R.C.2 and contains 0.64 acres, more or less. The subject property is part of the Bird River Beach subdivision, the plat for which was submitted as Petitioner's Exhibit 2. The property was subdivided in 1923, and two (2) dwellings have existed on the Petitioner's lot since 1940-50. The Petitioner now desires to raze both of these dwellings (as shown on Exhibit 1) and construct in

ORDER RECEIVED FOR FILING

Date 9-14-11

By DJ

their place one single family dwelling. To do so, Petitioner requires variance relief so that the proposed dwelling can be situated 51 feet from the centerline of Blackhead Road.

The Zoning Advisory Committee (ZAC) comments were received and are made a part of the record of this case. Comments were received from the Department of Environmental Protection and Sustainability, dated September 7, 2011, which provide as follows:

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 lot is located within a Limited Development Area (LDA) of the Chesapeake Bay Critical Area (CBCA). The lot is not waterfront. Lot coverage is limited to a maximum of 5,445 square feet with mitigation. Allowing a variance to the front yard setback is not contrary to CBCA lot coverage limit, and will therefore minimize adverse impacts on water quality that result from development activities.
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.

The proposed development will be required to meet all LDA requirements and therefore will be consistent with established land use policies 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.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Specifically, DEPS has insisted that Petitioner relocate the existing septic system and provide a reserve area as well. As depicted on Exhibit 1, in order to locate the septic trenches as required, the Petitioner needed to situate the proposed dwelling 51 feet from the centerline of the road, and the application of these more stringent environmental requirements renders this property unique.

I further find that the granting of the relief as set forth herein can be accomplished without injury to the public health, safety, and general welfare. In fact, there will be one dwelling instead of two, and the revised septic system will provide environmental benefits to the community. Therefore, in all manner and form, I find that variance relief can be granted in accordance with the requirements of Section 307 of the B.C.Z.R. as articulated in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

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

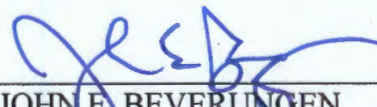
THEREFORE, IT IS ORDERED, this 14 day of September, 2011 by this Administrative Law Judge that Petitioner's Variance request from Section 1A01.3.B.3 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a 51-foot front setback from the centerline of a street, in lieu of the 75-foot minimum required, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for a building permit and may be granted same upon receipt of this Order, however the Petitioner is hereby made aware that proceeding at this time is at her 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 Petitioner will be required to return and be responsible for returning said property to its original condition.
2. The Petitioner shall comply with the comments of the DEPS, dated September 7, 2011; a copy of which is attached and made a part hereof.

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

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

SEP 07 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 7, 2011

SUBJECT: DEPS Comment for Zoning Item # 12-033-A
Address 6621 & 6619 Blackhead Road
(Letke Property)

Zoning Advisory Committee Meeting of August 15, 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 lot is located within a Limited Development Area (LDA) of the Chesapeake Bay Critical Area (CBCA). The lot is not waterfront. Lot coverage is limited to a maximum of 5,445 square feet with mitigation. Allowing a variance to the front yard setback is not contrary to CBCA lot coverage limit, and will therefore minimize adverse impacts on water quality that result from development activities.
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.

The proposed development will be required to meet all LDA requirements and therefore will be consistent with established land use policies 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

C:\DOCUME~1\DWILEY~1\BA2\LOCALS~1\Temp\XPgrwise\ZAC 12-033-A 6621 6619 Blackhead Road.doc

ORDER RECEIVED FOR FILING

9-14-11

Date

By



KEVIN KAMENETZ
County Executive

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

September 14, 2011

Catherine M. Letke
6619 Blackhead Road
Baltimore, Maryland 21220

RE: PETITION FOR VARIANCE

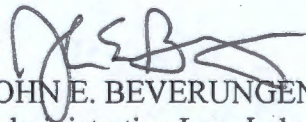
SE/side of Blackhead Road, 130' SW of c/line of Mallard Road
(6619-6621 Blackhead Road)
15th Election District - 6th Council District
Catherine M. Letke - Petitioner
CASE NO. 2012-0033-A

Dear Ms. Letke:

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,


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure



Petition for Variance

to the Zoning Commissioner of Baltimore County for the property
located at 6619-6621 Blackhead Road
which is presently zoned RC-2

Deed Reference: 29693 / 399 Tax Account # 1515740140

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)

1A01.3.B.3. to permit a 51-foot front setback from the center line of a street, in lieu of the 75-foot minimum required.

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

The property is too small to permit a 75-foot setback and permit a reasonable dwelling to be constructed. The building envelope is constrained further by the well and septic system locations. Other good and sufficient testimony to be provided at the zoning 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 _____

Legal Owner(s):

Catherine M. Letke
 Name - Type or Print _____
 Signature Catherine M. Letke _____

Name - Type or Print _____
 Signature _____
 6619 Blackhead Road 410-335-4215
 Address Telephone No.
 Baltimore MD 21220
 City State Zip Code

Representative to be Contacted:

McKee and Assoc., Inc. James D. Grammer
 Name _____
 5 Shawan Road, Suite 1 410-527-1555
 Address Telephone No.
 Cockeysville MD 21030
 City State Zip Code

Case No. 2012-0033-A

Office Use Only

REV 8/20/07

ORDER RECEIVED FOR FILING

Estimated Length of Hearing _____
 Available For Hearing _____
 Reviewed by [Signature] Date 8/4/11
 Date 9-14-11
 By [Signature]

August 3, 2011

ZONING DESCRIPTION
6619-6621 BLACKHEAD ROAD
15TH ELECTION DISTRICT
6th COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MD

Beginning at a point on the southeast side of Blackhead Road as laid out 40 feet wide, said point being situated 130-feet more or less southwesterly from the centerline of Mallard Road, then leaving said point and running the following courses: Southwesterly along the southeast side of Blackhead Road 171.15', more or less, then leaving said southeast side and running southerly 150', more or less, northeasterly 165.15', more or less, S 01° 56' 35" W 3.40', N 59° 17' 54" E 64.67', N 31° 46' 51" E 98.02', N 01° 56' 35" E 51.08' to the point of beginning as recorded in Deed Liber 29693, page 399, containing 27,878 sf or 0.64 acres of land, more or less. Located in the 15th Election District, 6th Councilmanic District.

2012-0033-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: # 2012-0033-A

6619-6621 Blackhead Road
S/east side of Blackhead Road, 130+/- feet s/west of the centerline of Mallard Road

15th Election District
6th Councilmanic District
Legal Owner(s): Catherine Letke
Variance: to permit a 51 foot front setback from the centerline of a street, in lieu of the 75 foot minimum required.

Hearing: Wednesday,
September 14, 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.

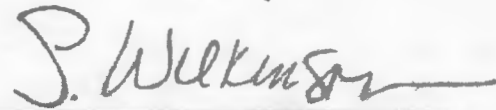
JT/8/754 Aug. 30 284897

CERTIFICATE OF PUBLICATION

9/1/, 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 8/30/, 2011.

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



LEGAL ADVERTISING

CERTIFICATE OF POSTING
CERTIFICATE OF POSTING

9/14
10am

RE: CASE NO: 2012-0033-A

PETITIONER/DEVELOPER JAMES
GRAMMER MCKEE & ASSOC.

DATE OF HEARING/CLOSING: _____
9/14/11

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVENUE

ATTENTION:

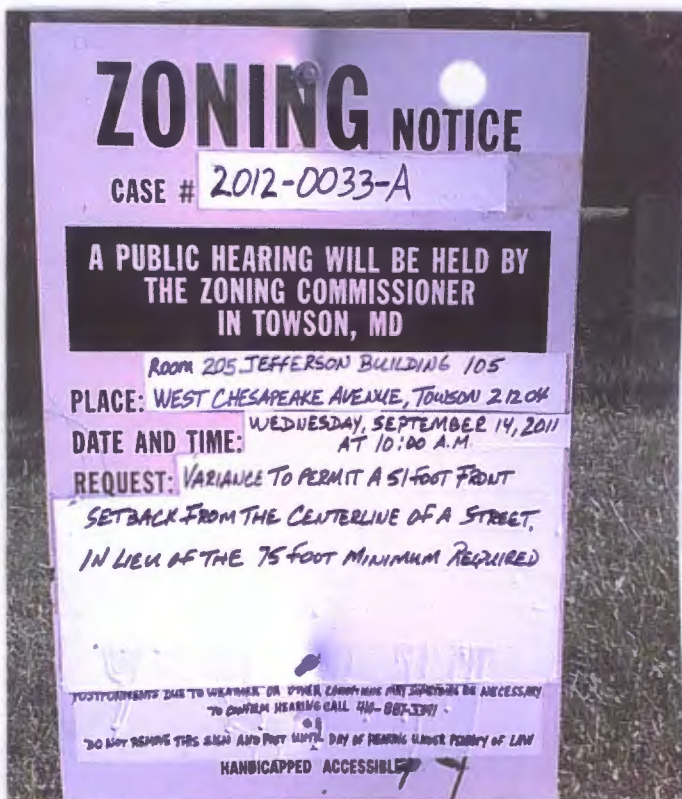
LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE
PROPERTY AT 6619-6621 BLACKHEAD ROAD

THIS SIGN(S) WERE POSTED ON August 30, 2011
(MONTH, DAY, YEAR)

SINCERELY,
Martin Ogle 8/30/11
SIGNATURE OF SIGN POSTER AND DATE:

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



Martin Ogle 8/30/11

RE: PETITION FOR VARIANCE
6619-6621 Blackhead Road; SE/S Blackhead
Road, 130' SW of c/line Mallard Road
15th Election & 6th Councilmanic Districts
Legal Owner(s): Catherine Letke
Petitioner(s)

* BEFORE THE
* ADMINISTRATIVE LAW
* JUDGE FOR
* BALTIMORE COUNTY
* 2012-033-A

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

RECEIVED

AUG 18 2011

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of August, 2011, a copy of the foregoing Entry of Appearance was mailed to McKee & Associates, 5 Shawan Road, Suite 1, Cockeysville, MD 21030, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

RECEIVED

Inter-Office Correspondence

SEP 07 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 7, 2011

SUBJECT: DEPS Comment for Zoning Item # 12-033-A
Address 6621 & 6619 Blackhead Road
(Letke Property)

Zoning Advisory Committee Meeting of August 15, 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 lot is located within a Limited Development Area (LDA) of the Chesapeake Bay Critical Area (CBCA). The lot is not waterfront. Lot coverage is limited to a maximum of 5,445 square feet with mitigation. Allowing a variance to the front yard setback is not contrary to CBCA lot coverage limit, and will therefore minimize adverse impacts on water quality that result from development activities.
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.

The proposed development will be required to meet all LDA requirements and therefore will be consistent with established land use policies 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

~~9/14~~ 9/14
10AM

Case No.: 2012-0033-A - 6619 Blackhawk Rd.

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	Site Plan	
No. 2	Bird River Plat.	
No. 3 A-N	Photos	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



I

SOUTHWESTERLY ALONG BLACKHEAD ROAD



J

IMPROVEMENTS AT 6614 BLACKHEAD ROAD



K

IMPROVEMENTS OF 6618 BLACKHEAD ROAD



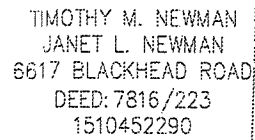
L

IMPROVEMENTS OF 1620 BLACKHEAD ROAD

1. EXISTING ZONING IS RC-2.
2. BALTIMORE COUNTY GIS TILE NO. 033a2
3. DEED REFERENCE: S.M. 29693/399.
4. PROPERTY TAX ACCOUNT No.: 15-15-740140, 15-20-450090.
5. BEING PARTS OF LOTS 168, 169, 170, & 171, AS SHOWN ON PLAT ENTITLED "PLAT OF SECTION No. 2 BIRD RIVER BEACH" RECORDED IN PLAT BOOK W.P.C. 7, PAGE 85 (RECORDED IN SEPTEMBER 1923)
6. TOTAL AREA OF PROPERTY (BY DEED) - 27,878sf OR 0.64 ac±.
7. THIS SITE IS LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
8. THIS SITE IS NOT LOCATED WITHIN A 100-YEAR FLOOD PLAIN.
9. THIS SITE IS NOT HISTORIC.
10. THIS SITE IS SERVED BY PRIVATE WELL AND SEPTIC SYSTEMS.
11. THERE ARE NO ZONING LINES WITHIN 200-FEET OF THIS PROPERTY, UNLESS OTHERWISE SHOWN.

1. NONE.

1. NONE.



SCALE: 1"=1000'

WELL EXISTING

PERC TEST

PROP. SEPTIC AREA

FLOOD PLAIN

REQUESTING A VARIANCE FROM SECTION 1A01.3.B.3. OF THE B.C.Z.R. TO PERMIT A 51-FOOT SETBACK FROM THE CENTERLINE OF A STREET, IN LIEU OF THE REQUIRED 75-FEET.

CASE NO. 2012-0033-A

#6619-6621 BLACKHEAD ROAD

15TH ELECTION DISTRICT
SCALE: 1"= 30'

BALTIMORE COUNTY, MARYLAND
DATE: JULY 27, 2011

DATE	REVISION
08-03-2011	REVISED GEN NOTES, ADDED LOT COURSES

PETITIONER'S

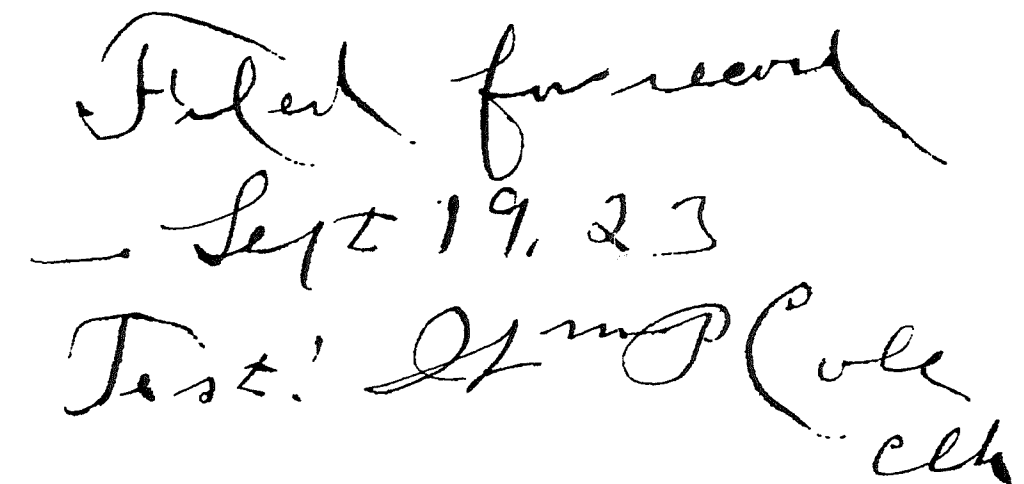
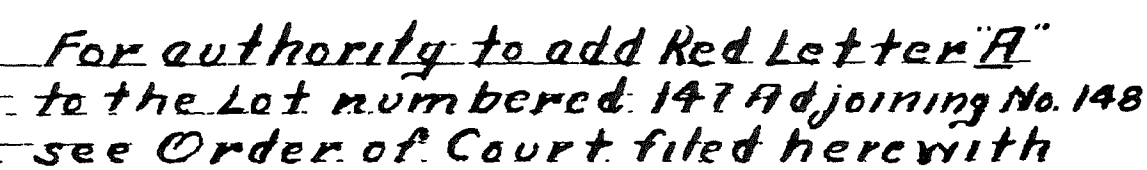
EXHIBIT NO. 1

CATHERINE M. LETKE
6619 BLACKHEAD ROAD
BALTIMORE, MD 21220
PHONE No.: 410-335-4215

COMPUTED BY: JDG	DRAWN BY: JDG	CHECKED BY: JDG	JOB No.: 10-041C
------------------	---------------	-----------------	------------------

McKEE & ASSOCIATES, INC.
Engineering - Land Planning - Land Surveying

Natural Resource Planning – Real Estate Development
5 SHAWAN ROAD, Suite 1 COCKEYSVILLE, MARYLAND 21030
TELEPHONE: (410) 527-1555 FACSIMILE: (410) 527-1563



OVERLEA, MD.

Surveyed & Platted By
Willard M. Lee & Co. Surveyors
3408 Belair Rd. Balto., Md.
Scale: - 1" = 100' Date: - Aug. 16, 1923.

MSA; CSN 2136 - 443/-