

IN RE: PETITION FOR VARIANCE
(1216 Burke Road)
15th Election District
6th Councilmanic District
Angela Acitelli
Petitioner

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2013-0096-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by the legal owner of the subject property, Angela Acitelli. The Petitioner is requesting Variance relief from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed replacement dwelling to have side yard setbacks of 8 ft. each in lieu of the required 50 ft. 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 held for this case was Aldo and Christian Acitelli and Thomas A. Church, P.E., with Development Engineering Consultants Inc., the firm that prepared the site plan. Also appearing was Charles Cargile and Milton Bell. The file 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 received and made a part of the record of this case. A ZAC comment was received from the Department of Environmental Protection and Sustainability (DEPS) on December 7, 2012 indicating that Petitioner is obliged to comply with certain Critical Area regulations, as set forth in B.C.Z.R. § 500.14. The Bureau of

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Date 12/17/12

By Sn

Development Plans Review (DPR) submitted a comment indicating Petitioner must comply with the County's flood protection regulations. Finally, the Department of Planning (DOP) submitted a comment noting that Petitioner must provide for its review building elevations and design information so that it can determine whether the proposed dwelling satisfies the RC-5 zone performance standards.

Testimony and evidence revealed that the subject property is 13,534 square feet (0.31 acres) and is zoned RC- 5. The property is improved with a small dwelling constructed in 1952, and the Petitioner indicated the home is in serious disrepair and has severe mold conditions as well. As such, the petitioner proposes to raze the existing dwelling (shown on the photos marked as Exhibit 2) and construct in its place a new home sized at 65' x 34'. The Petitioner's immediate neighbors attended the hearing, and while they agree the existing dwelling needs to be razed and rebuilt, they oppose the construction of a 34' wide dwelling. They indicated that the proposed 8' side yard setbacks would cause the homes to appear crowded together, and they were also concerned with the possibility of excess storm water runoff with such small setbacks. Both residents also explained that most of the homes in the area are between 28'-30' wide. I believe the concerns expressed by the neighbors are valid and legitimate, and a 30' wide dwelling with 10 ft. setbacks on each side would be consistent with the current pattern of development and would allow for some "elbow room," as noted by Mr. Cargile.

At several points during the hearing, the testimony and discussion tended to focus on the size and positioning on the lot (in terms of how close it would be situated to Galloway Creek) of the proposed dwelling. As Mr. Church noted, the hearing was not one to determine whether building permits should be issued or whether the site plan complied with the county's environmental regulations. Those issues will be carefully reviewed by the respective county

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Sn

agencies responsible for such matters. But one point concerning the site plan and the size of the proposed dwelling is in order at this juncture.

Specifically, B.C.Z.R. §§104.5 and 104.3 are applicable in this case, given that the existing dwelling is nonconforming and is located within the Critical Area. As such, the ground floor area of the replacement dwelling can only be extended or enlarged by 25%. The existing dwelling (51' x 25') has a ground floor area of 1,275 S.F., and under the above cited regulations the replacement dwelling can be no larger than 1,593.75 S.F. ground floor area. The replacement dwelling shown on the plan (Exhibit 1) is sized at 65' x 34', or 2,210 S.F. ground floor area, which would not be permitted under the B.C.Z.R., although that determination will be left to the County's Department of Permits, Approvals, and Inspections, which is the agency that reviews plans and issues permits for construction.

Based upon the testimony and evidence presented, I will grant the request for variance relief. Under *Cromwell* and its progeny, to obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md. 53, 80 (2008).

Petitioner has met this test. The property is zoned RC-5, which imposes stringent setback and lot size requirements. This zoning - - which is somewhat anomalous - - and the waterfront location render the property unique.

If the B.C.Z.R. were strictly enforced, the Petitioner would indeed suffer a practical difficulty and/or hardship, since he would be unable to construct the replacement dwelling as designed. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and

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Date 12/17/12

By SN

general welfare. Other homes in the area have been rebuilt, and the dwelling proposed by Petitioner would improve the site and be compatible with the neighborhood.

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

THEREFORE, IT IS ORDERED, this 17th day of December, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed replacement dwelling to have side yard setbacks of 8 ft. each in lieu of the required 50 ft. be and is hereby **DENIED**.

It is further ordered that variance relief pursuant to B.C.Z.R. Section 1A04.3.B.2.b, to permit a replacement dwelling to have side yard setbacks of 10 ft. each in lieu of the required 50 ft. be and is hereby **GRANTED**.

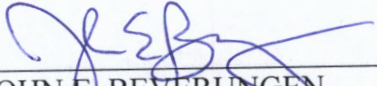
The relief granted herein shall be conditioned upon and subject to the following:

1. The Petitioner may apply for any required permits and may be granted same upon receipt of this Order; however the Petitioner is hereby made aware that proceeding at this time is at his 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 must comply with the ZAC comments received from DEPS, DOP and DPR; copies of which are attached hereto and made a part hereof.

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

ORDER RECEIVED FOR FILING

Date 12/17/12
By SN



JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:slh

ORDER RECEIVED FOR FILING

Date 12/17/12

By sn



KEVIN KAMENETZ
County Executive

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

December 18, 2012

Angela Acitelli
3720 Heaton Road
Huntingdon Valley, PA. 19006

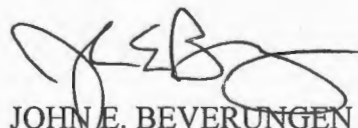
RE: Petition for Variance
Case No.: 2013-0096-A
Property: 1216 Burke Road

Dear Mrs. Acitelli:

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

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

Sincerely,


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: Aldo and Christian Acitelli, 1210 Burke Road, Middle River, Maryland 21220
Charles Cargile, 1218 Burke Road, Baltimore, Maryland 21220
Milton Bell, 1214 Burke Road, Baltimore, Maryland 21220



CACA

PETITION FOR ZONING HEARING(S)

FLOOD PLAIN

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 1216 BURKE ROAD which is presently zoned RC-5
Deed References: 28763/094 10 Digit Tax Account # 1508004920
Property Owner(s) Printed Name(s) ANGELA ACITELLI

(SELECT THE HEARING(S) BY MARKING **X** AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

- 1 **a Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve
- 2 **a Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
- 3 **☒ a Variance** from Section(s)

Section 1A04.3.B.2.b – to permit a proposed replacement dwelling to have side yard setbacks of 8 feet each in lieu of the required 50 feet each

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:
(Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

SEE ATTACHED SHEET AS WELL AS OTHER REASONS THAT MAY ARISE DURING THE HEARING.

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above petition(s), 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.
Legal Owner(s) Affirmation: I / we do so 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 / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print _____

Signature _____

Mailing Address _____ City _____ State _____

Zip Code _____ Telephone # _____ Email Address _____

Legal Owners (Petitioners):

ANGELA ACITELLI

Name #1 - Type or Print _____ Name #2 - Type or Print _____

Signature #1 _____ Signature #2 _____

3720 HEATON RD, HUNTINGDON VALLEY, PA.

Mailing Address _____ City _____ State _____

19006 / 215-327-8448 N/A

Zip Code _____ Telephone # _____ Email Address _____

Attorney for Petitioner:

Name- Type or Print _____

Signature _____

Mailing Address _____ City _____ State _____

Zip Code _____ Telephone # _____ Email Address _____

Representative to be contacted:

THOMAS A. CHURCH, P.E.

Name - Type or Print _____

Signature _____

DEVELOPMENT ENGINEERING CONSULTANTS, INC.

6603 YORK ROAD BALTIMORE, MD

Mailing Address _____ City _____ State _____

21212 / 410-377-2600 tchurch@comcast.net

Zip Code _____ Telephone # _____ Email Address _____

CASE NUMBER 2013-0096-A Filing Date 10/24/12 Do Not Schedule Dates: _____ Reviewer [Signature]

1216 Burke Road, Petition for a Variance Request
Our Contract: 12-108
October 15, 2012

Hardships and practical difficulties justifying the requested side yard variance:

The lot has been in existence since 1921 as a 50 foot wide lot as shown on the plat referenced to on the Plat to Accompany Petition for Zoning Variance, which is well before Baltimore County had any zoning requirements.

The existing dwelling was constructed in 1952, after Baltimore County had adopted zoning and was zoned R-6. The R-6 classification eventually became DR 5.5. The property is also served by public water, which was installed in 1953, and public sewer, which was installed in 2002.

However, the subject property was zoned RDP (Rural Deferred Planning) instead of DR 5.5 as other R-6 properties were throughout the county. Subsequently, RDP became RC-5.

The existing dwelling was constructed with a 12 foot side yard on the southeast side and a 13 foot side yard on the northwest side, allowing for a 25 foot wide dwelling.

However, the current design theory for dwellings, as well as what is desired by most contemporary homeowners, requires a dwelling to be at least 35 to 40 feet wide. The requested side yard setback of 8 feet on both sides would allow for 34 foot wide dwelling, which would be acceptable to today's homeowner.

The situation which is described by the above stated facts can be summarized as follows: the proposed work, which is to raze an outdated dwelling and replace it with a new dwelling that meets the current design practices, has been subjected to a zoning classification which probably should have never been placed on the property, especially in view of its lot size and the fact that it had public water in place when it was zoned RC-5, as public water is not allowed for RC-5 zoned properties.

As a result of the decision to zone the property RC-5, it is impossible to meet the requirements of the RC-5 classification, and thus, it is believed the requested side yard setback of 8 feet is justified and should be allowed.

Item # 0096

DEVELOPMENT ENGINEERING CONSULTANTS, INC.

Site Engineers & Surveyors

6603 York Road
Baltimore, Maryland 21212
(410) 377-2600
(410) 377-2625 Fax

ZONING DESCRIPTION FOR 1216 BURKE ROAD

BEGINNING for the same at a point on the southwest side of Burke Road, 30 feet wide, more or less, said point being 660 feet, more or less from the centerline of Burke Road, 30 feet wide, more or less. Thence the following courses and distances.

1. South 29 degrees 18 minutes 54 seconds West, 280.05 feet,
2. North 40 degrees 28 minutes 48 seconds West, 39.24 feet,
3. North 35 degrees 48 minutes 15 seconds West, 14.53 feet,
4. North 29 degrees 18 minutes 54 seconds East, 260.39 feet,
5. South 60 degrees 41 minutes 06 seconds East, 50.00 feet to the place of beginning.

CONTAINING 13,534 square feet or 0.31 acres of land, more or less.

BEING the same parcel described in a deed in the Land Records of Baltimore County, dated January 10, 1986, and recorded in Liber 28763, Folio 094.

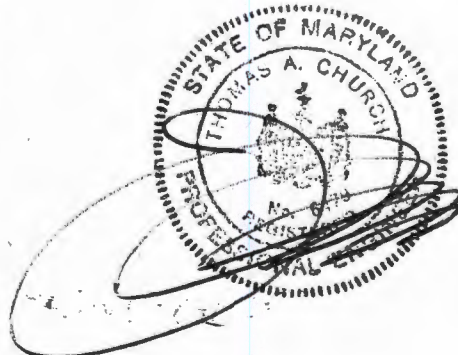
ALSO being the same parcel shown and designated as Lot 113 on a plat entitled "Bowleys Quarter Plat No. 1" and recorded in the Land Records of Baltimore County in Plat Book 7, Folio 12.

ALSO, known as 1216 Burke Road, and located in the 15th Election District of Baltimore County, Maryland.

6th Councilmanic Dist

Contract No. 02-108

October 15, 2012



Item #0096

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: # 2013-0096-A
Petitioner: ANGELA ACITELLI
Address or Location: 1216 BURKE ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: DEVELOPMENT ENGINEERING CONSULTANTS, INC.
Address: 6603 YORK ROAD
BALTIMORE, MD, 21212

Telephone Number: 410-377-2600

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

No. **90115**

Date: **10/21/12**

PAID RECEIPT

BUSINESS ACTUAL TIME BKN
 10/24/2012 10/24/2012 09:20:12 5

REG 0003 WALKIN RDOS LRB
 RECEIPT # 621679 10/24/2012 OFLN

5 529 ZONING VERIFICATION
 10/24/2012

Recpt tot \$75.00
 \$75.00 CK \$0.00 CA
 Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/Obj	Sub Rev/Obj	Dept Obj	BS Acct	Amount
001	306	0000		6150				\$ 75.00

Total: **\$ 75.00**

Rec From:

For: **zoning hearing - case # 2013-0096-A**

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**

CERTIFICATE OF POSTING

2013-0096-A

RE: Case No.: _____

Petitioner/Developer: _____

Angela Acitelli

December 13, 2012

Date of Hearing/Closing: _____

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

Attn: Kristen Lewis:

Ladies and Gentlemen:

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

1216 Burke Rd

November 23, 2012

The sign(s) were posted on _____

(Month, Day, Year)

Sincerely,

November 23, 2012

(Signature of Sign Poster)

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

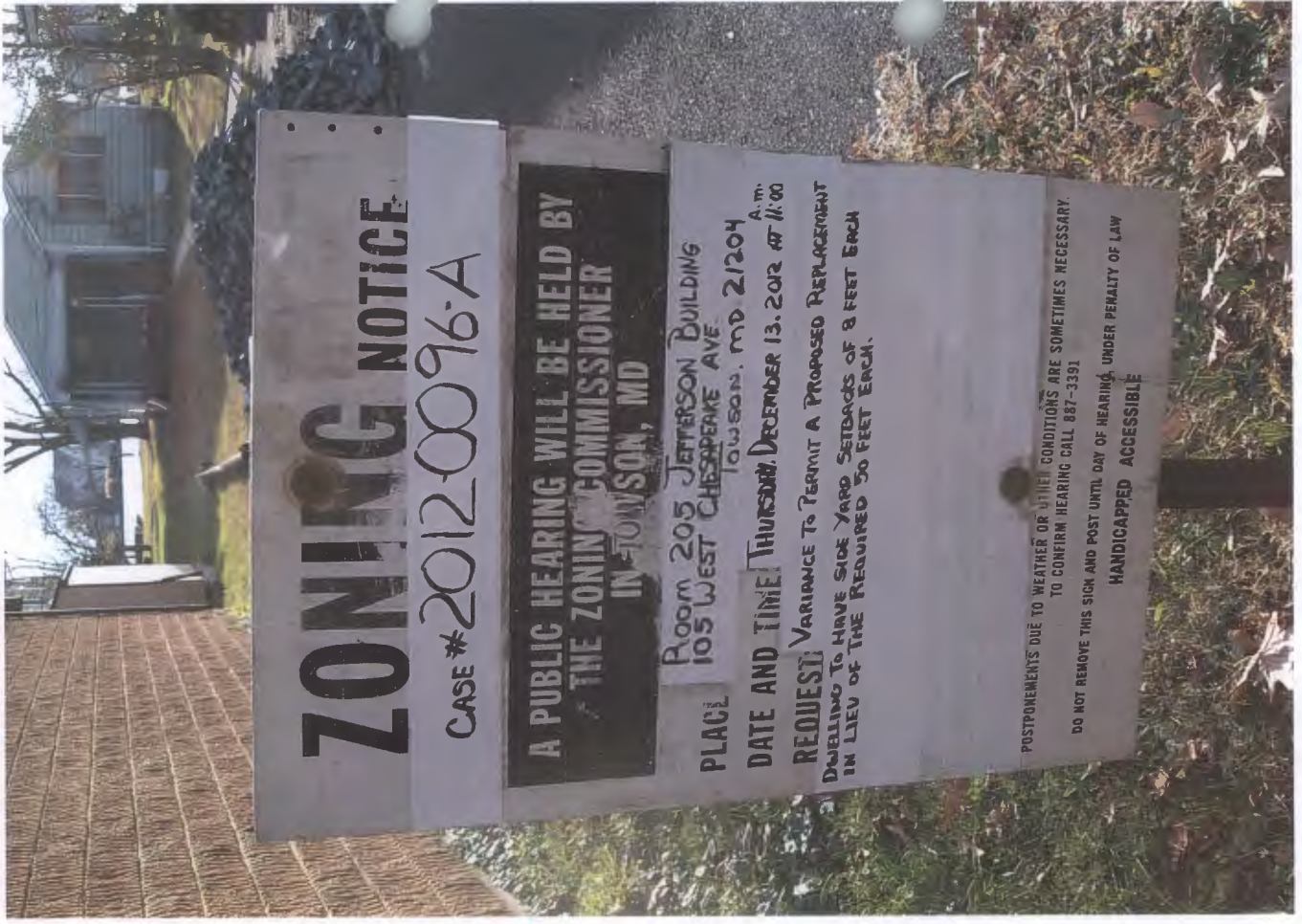
Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

COUNTY ISSUED V-LONG CASE #



CORRECTED SIGN





KEVIN KAMENETZ
County Executive

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

November 9, 2012

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: 2012-0096-A

1216 Burke Road

SW/s Burke Road, 660 ft. +/- W/of centerline of Burke Road

15th Election District – 6th Councilmanic District

Legal Owners: Angela Acitelli

Variance to permit a proposed replacement dwelling to have side yard setbacks of 8 feet each in lieu of the required 50 feet each.

Hearing: Thursday, December 13, 2012 at 11:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

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

Arnold Jablon
Director

AJ:kl

C: Angela Acitelli, 3720 Heaton Road, Huntingdon Valley PA 19006
Thomas Church, 6603 York Road, Baltimore 21212

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, NOVEMBER 23, 2012.**
- (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.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, November 20, 2012 Issue - Jeffersonian

Please forward billing to:
Development Engineering Consultants, Inc.
6603 York Road
Baltimore, MD 21212

410-377-2600

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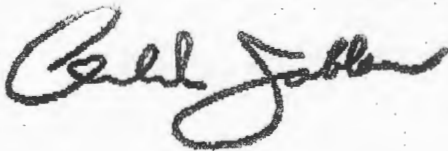
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Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

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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 11/721 November 20

888879



501 N. Calvert Street, Baltimore, MD 21278

November 22, 2012

THIS IS TO CERTIFY, that the annexed advertisement was published in the following newspaper published in Baltimore County, Maryland, ONE TIME, said publication appearing on November 20, 2012.

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

PATUXENT PUBLISHING COMPANY

By: Susan Wilkinson

Susan Wilkinson



KEVIN KAMENETZ
County Executive

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

December 6, 2012

Angela Acitelli
3720 Heaton Road
Huntingdon Valley, PA 19006

RE: Case Number: 2013-0096 A, Address: 1216 Burke Road

Dear Ms. Acitelli:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on October 24, 2012. 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 that reads "W. Carl Richards, Jr." The signature is stylized with a large, sweeping "W" and a long, trailing "J".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaf

Enclosures

c: People's Counsel
Thomas A. Church, P. E., Development Engineering Consultants Inc., 6603 York Road
Baltimore MD 21212

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



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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 11-1-12

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

RE: Baltimore County
Item No 2013-0096-A
Variance
Angela Acitelli
1216 Burke Road.

Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2013-0096-A.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Steven D. Foster".
Steven D. Foster, Chief
Access Management Division

SDF/raz

My telephone number/toll-free number is _____

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

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

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For November 12, 2012
Item No. 2013-0096

DATE: November 01, 2012

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment(s).

The base flood elevation for this site is 8.5 feet [NAVD 88].

The flood protection elevation is 9.5 feet.

In conformance with *Federal Flood Insurance* requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.

The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the *Baltimore County Building Code* must be followed whereby elevation limitations are placed on the lowest floor (*including basements*) of residential (*commercial*) development.

The building engineer shall require a permit for this project.

The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.

Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the *International Building Code*.

DAK:CEN
cc: File
ZAC-ITEM NO 13-0096-11122012.doc

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

DEC 07 2012



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: December 7, 2012

SUBJECT: DEPS Comment for Zoning Item # 2012-0096-A
Address 1216 Burke Road
(Acitelli Property)

Zoning Advisory Committee Meeting of October 29, 2012.

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

1. The subject property is located within a Limited Development Area (LDA) and a Buffer Management Area (BMA) and is subject to Critical Area requirements. The applicant is proposing to allow a replacement single family dwelling with reduced side yard setbacks. The lot is waterfront and is developed with a dwelling, pier, shed, garage, and driveway. The proposed dwelling is within the 100-foot buffer. It appears the dwelling meets the BMA setback requirements; BMA mitigation is required for the portion of dwelling within the 100-foot buffer. Lot coverage on the entirety of this property is limited to 31.25% (4,229 square feet), with mitigation required for new lot coverage over 25% (3,383.5 square feet). Lot coverage information was not provided. If the applicant can meet the lot coverage requirements and the 15% afforestation requirements of 4 trees and provides the BMA mitigation, the relief requested by the applicant will result in minimal impacts to water quality.
2. This property is waterfront. If lot coverage, BMA, and afforestation requirements are met, that will help conserve fish, plant, and wildlife habitat in the Chesapeake Bay.
3. Lot coverage information was not included. Provided that the applicants meet the requirements stated above, the relief requested will be consistent with established land-use policies.

Reviewer: *Regina Esslinger – Environmental Impact Review*

JS 12-13
11 am

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: December 6, 2012

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 1216 Burke Road

INFORMATION:

Item Number: 13-096

Petitioner: Angela Aoitelli

Zoning: RC 5

Requested Action: Variance

RECEIVED

DEC 11 2012

OFFICE OF ADMINISTRATIVE HEARINGS

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. According to Baltimore County's GIS information, the proposed dwelling will be located within a 100-year floodplain. The petitioner and any prospective contract purchasers should be advised that the new dwelling must comply with all applicable regulations pertaining to the construction of a dwelling in a floodplain in addition to the performance standards of the RC 5 zone.

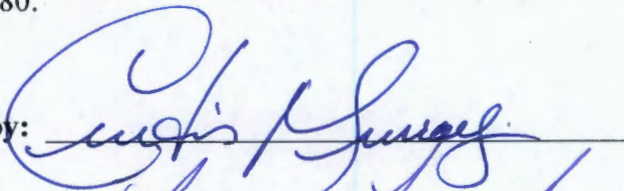
This department is required to provide a statement of finding to the Administrative Law Judge indicating how the proposed construction complies with the current RC 5 requirements. To prepare the statement of finding, the following information must be submitted to this department:

1. Photographs of existing adjacent dwellings.
2. Submit building elevations (all sides) of the proposed dwelling to this department for review and approval prior to the hearing. The proposed dwelling shall be compatible in size and architectural detail as that of the existing dwellings in the area. Ensure that the exterior of the proposed building(s) uses the same finish materials and architectural details on the front, side, and rear elevations. Use of quality material such as brick, stone, or cedar is encouraged.
3. Design all decks, balconies, windows, dormers, chimneys, and porches as a component of the building following dominant building lines. Decks shall be screened to minimize visibility from a public street.
4. Design all accessory structures at a scale appropriate to the dwelling and design garages with the same architectural theme as the principal building on the site, providing consistency in materials, colors, roof pitch, and style.

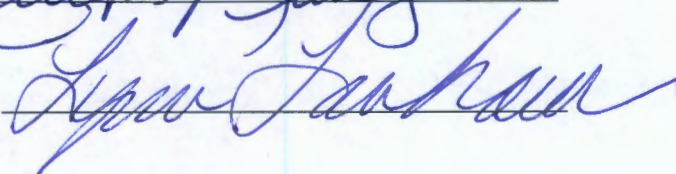
5. Provide landscaping along the public road, if consistent with the existing streetscape.

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

Prepared by:

A handwritten signature in blue ink, appearing to read "Curtis P. Surges", written over a horizontal line.

Division Chief:
AVA/LL: CM

A handwritten signature in blue ink, appearing to read "Lynn L. Surges", written over a horizontal line.

RE: PETITION FOR VARIANCE
1216 Burke Road; SW/S Burke Road, 660' W
of c/line Burke Road
15th Election & 6th Councilmanic Districts
Legal Owner(s): Angela Acitelli
Petitioner(s)

* BEFORE THE OFFICE
* OF ADMINSTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* 2013-096-A

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of November, 2012, a copy of the foregoing Entry of Appearance was mailed to Thomas Church, P.E., 6603 York Road, Baltimore, MD 21212, Representative for Petitioner(s).

RECEIVED

NOV 07 2012

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Sherry Nuffer - 2013-0096-A

From: Sherry Nuffer
To: Livingston, Jeffrey
Subject: 2013-0096-A

in reviewing the case file it appears there is no ZAC comment from your department; CBCA area.

Thanks,

2013-0096-A

Maryland Department of Assessments and Taxation
Real Property Data Search (vw3.1A)
BALTIMORE COUNTY

[Go Back](#)
[View Map](#)
[New Search](#)
[GroundRent](#)
[Redemption](#)
[GroundRent](#)
[Registration](#)

Account Identifier: District - 15 Account Number - 1508004920

Owner Information			
Owner Name:	ACITELLI ANGELA	Use:	RESIDENTIAL
Mailing Address:	1216 BURKE RD BALTIMORE MD 21220-4415	Principal Residence:	NO
		Deed Reference:	1) /28763/ 00094 2)

Location & Structure Information	
Premises Address 1216 BURKE RD 0-0000	Legal Description 1216 BURKE RD Waterfront BOWLEYS QUARTERS

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:	Plat Ref:
0098	0004	0004		0000			113	3		1

Special Tax Areas	Town NONE
	Ad Valorem
	Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1952	948 SF	8,900 SF	34

Stories	Basement	Type	Exterior
1.000000	NO	STANDARD UNIT SIDING	

Value Information				
	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2012	07/01/2012	07/01/2013
Land	319,500	259,500		
Improvements:	46,400	32,400		
Total:	365,900	291,900	291,900	291,900
Preferential Land:	0			0

Transfer Information			
Seller:	HAUBROE WILLIAM E	Date:	10/20/2009
Type:	ARMS LENGTH IMPROVED	Deed1:	/28763/ 00094
		Deed2:	
Seller:		Date:	
Type:		Deed1:	
		Deed2:	
Seller:		Date:	
Type:		Deed1:	
		Deed2:	

Exemption Information			
Partial Exempt Assessments	Class	07/01/2012	07/01/2013
County	000	0.00	
State	000	0.00	
Municipal	000	0.00	0.00
Tax Exempt:		Special Tax Recapture:	
Exempt Class:		NONE	

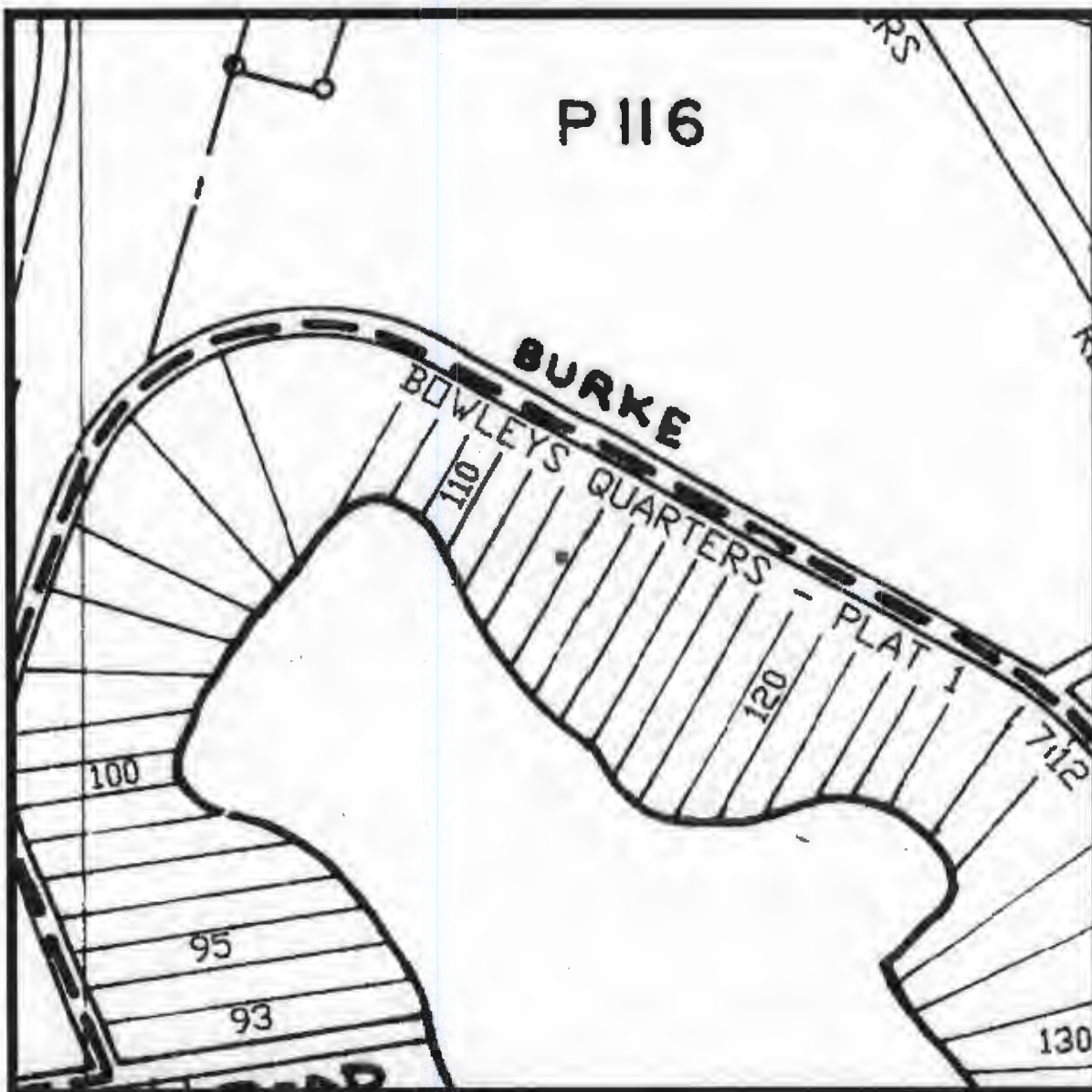
Homestead Application Information	
Homestead Application Status:	No Application



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

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

District - 15 Account Number - 1508004920



The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net.

Property maps provided courtesy of the Maryland Department of Planning ©2011.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml

Maryland Department of Assessments and Taxation
Real Property Data Search (vw5.1A)
BALTIMORE COUNTY

[Go Back](#)
[View Map](#)
[New Search](#)
[GroundRent Redemption](#)
[GroundRent Registration](#)

Account Identifier: District - 15 Account Number - 1508004920

Owner Information

Owner Name: ACITELLI ANGELA **Use:** RESIDENTIAL
Principal Residence: NO
Mailing Address: 1216 BURKE RD
BALTIMORE MD 21220-4415 **Deed Reference:** 1) /28763/ 00094
2)

Location & Structure Information

Premises Address
1216 BURKE RD
0-0000
Legal Description
1216 BURKE RD
Waterfront BOWLEYS QUARTERS

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:	Plat Ref:
0098	0004	0004		0000			113	3		1

Special Tax Areas
Town NONE
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1952	948 SF	8,900 SF	34

Stories	Basement	Type	Exterior
1.000000	NO	STANDARD UNIT SIDING	

Value Information

	Base Value	Value As Of 01/01/2012	Phase-in Assessments	
			As Of 07/01/2012	As Of 07/01/2013
Land	319,500	259,500		
Improvements:	46,400	32,400		
Total:	365,900	291,900	291,900	291,900
Preferential Land:	0			0

Transfer Information

Seller:	Date:	Price:
HAUBROE WILLIAM E	10/20/2009	\$250,000
Type: ARMS LENGTH IMPROVED	Deed1: /28763/ 00094	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2012	07/01/2013
County	000	0.00	
State	000	0.00	
Municipal	000	0.00	0.00

Tax Exempt:	Special Tax Recapture:
Exempt Class:	NONE

Homestead Application Information

Homestead Application Status: No Application

Item #0096

ALDO M ACITELLI, ARCHITECT

3720 HEATON ROAD HUNTINGDON VLY PA 19006 215-947-2242

Angela Acitelli
1216 Burke Rd
Middle River, Maryland, 21220

10/17/12

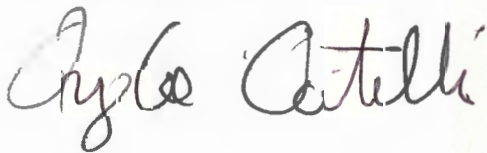
To:
Baltimore County

Sirs,

This letter confirms that my son, Aldo Acitelli has my rights and permission to obtain building and zoning permits for my new home at 1216 Burke rd, Middle River, Maryland.

Thank you,

Angela Acitelli

A handwritten signature in cursive script that reads "Angela Acitelli". The signature is written in dark ink and is positioned below the printed name.

Item #0096

MEMORANDUM

DATE: January 18, 2013
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2013-0096-A - Appeal Period Expired

The appeal period for the above-referenced case expired on January 16, 2013. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: ✓ Case File
Office of Administrative Hearings

CASE NAME 1216 Burke Rd.
CASE NUMBER 2013-0096 A
DATE 12-13-12

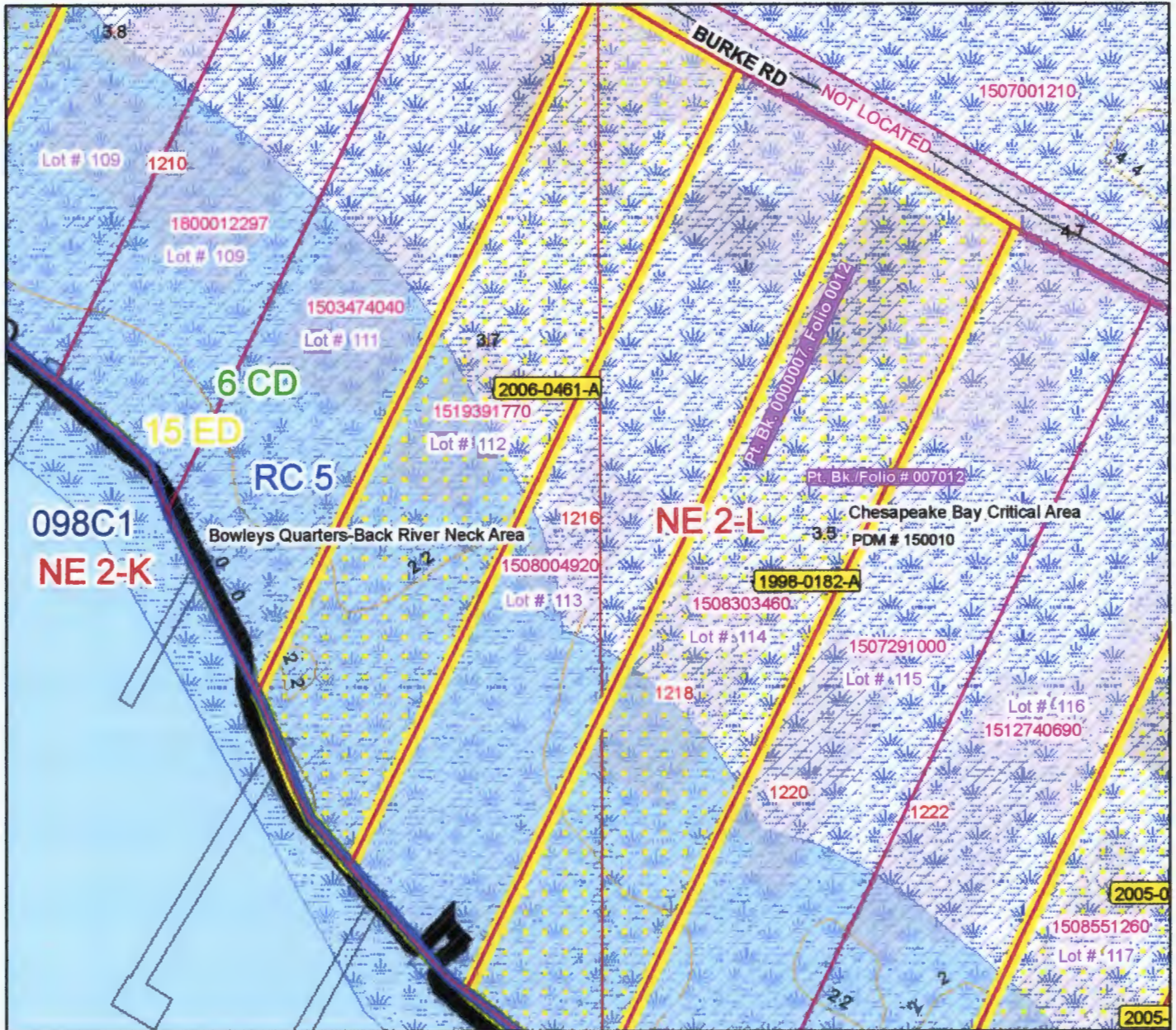
[illegible]

CASE NAME 1216 Burke Rd.
CASE NUMBER 2003-0096A
DATE 12/13/2012

CASE NAME 1216 Burke Rd
CASE NUMBER 2003-0096A
DATE 12/13/2012

[illegible]

Elevation & Flood Hazards



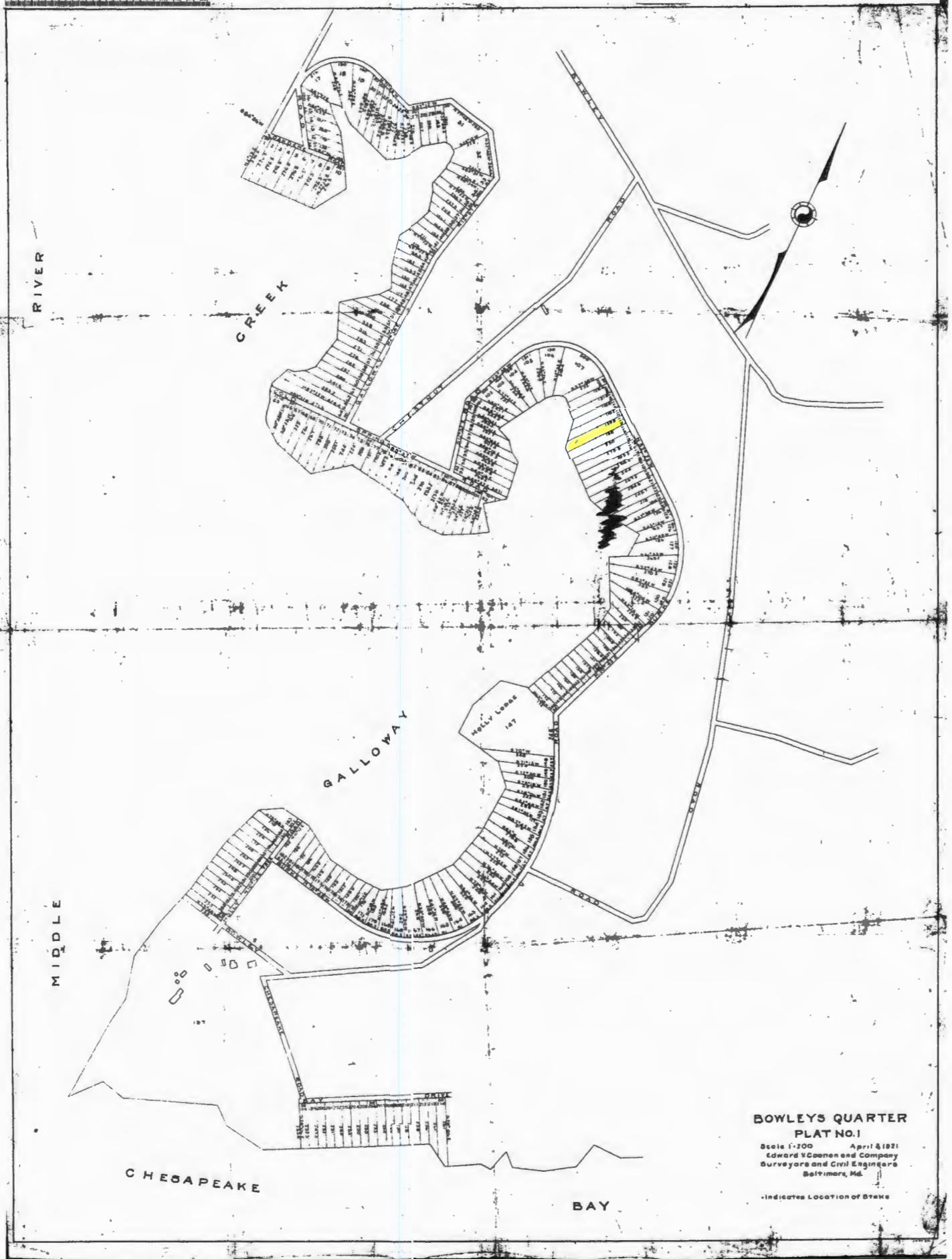
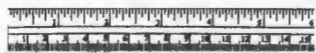
Publication Date: October 24, 2012
 Publication Agency: Department of Permits & Development Management
 Projection/Datum: Maryland State Plane,
 FIPS 1900, NAD 1983/91 HARN, US Foot



0 50 100
 Feet

1 inch = 50 feet

Item #0096



**BOWLEYS QUARTER
PLAT NO. 1**

Scale 1"=200' April 5, 1891
Edward V. Coenen and Company
Surveyors and Civil Engineers
Baltimore, Md.

Indicates Location of Stake

Item # 0096

CASE NO. 2013-00916-A

CHECKLIST

Support/Oppose/
Conditions/
Comments/
No Comment

Comment
Received

Department

11/1

DEVELOPMENT PLANS REVIEW
(if not received, date e-mail sent _____)

C

12/7

DEPS (CBCA)
(if not received, date e-mail sent 12/6)

C

12-11

FIRE DEPARTMENT
PLANNING
(if not received, date e-mail sent _____)

Cw/cond.

11/1

STATE HIGHWAY ADMINISTRATION

NO Obj

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT

Date: 11/20

SIGN POSTING

Date: 11/23

by Black

PEOPLE'S COUNSEL APPEARANCE

Yes ☒ No ☐

PEOPLE'S COUNSEL COMMENT LETTER

Yes ☐ No ☐

Comments, if any: _____

EX. 2

*1214

A



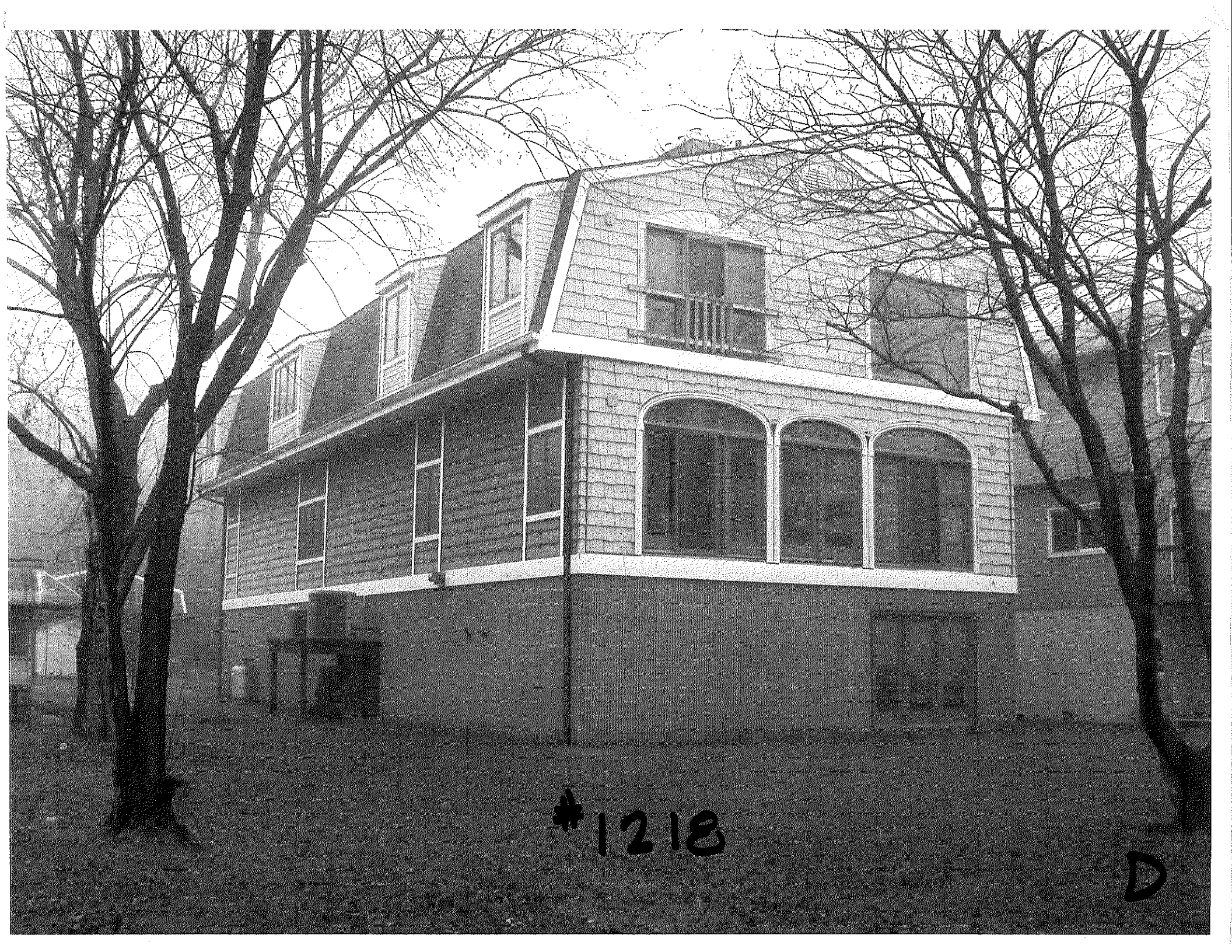
#1216

B



#1216

C



#1218

D

Case No.:

2013-0096-A

SW
12-17-12

Exhibit Sheet

Petitioner/Developer

Protestant

DW
1-18-13

No. 1	Site Plan	
No. 2	Color Photos (#9)	
No. 3		
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		









ZONING NOTICE

CASE #2013-0096-A

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

Room 205 JEFFERSON BUILDING
105 WEST CHESAPEAKE AVE.
TOWSON, MD 21204

PLACE

DATE AND TIME: THURSDAY, DECEMBER 13, 2012 AT 11:00 A.M.

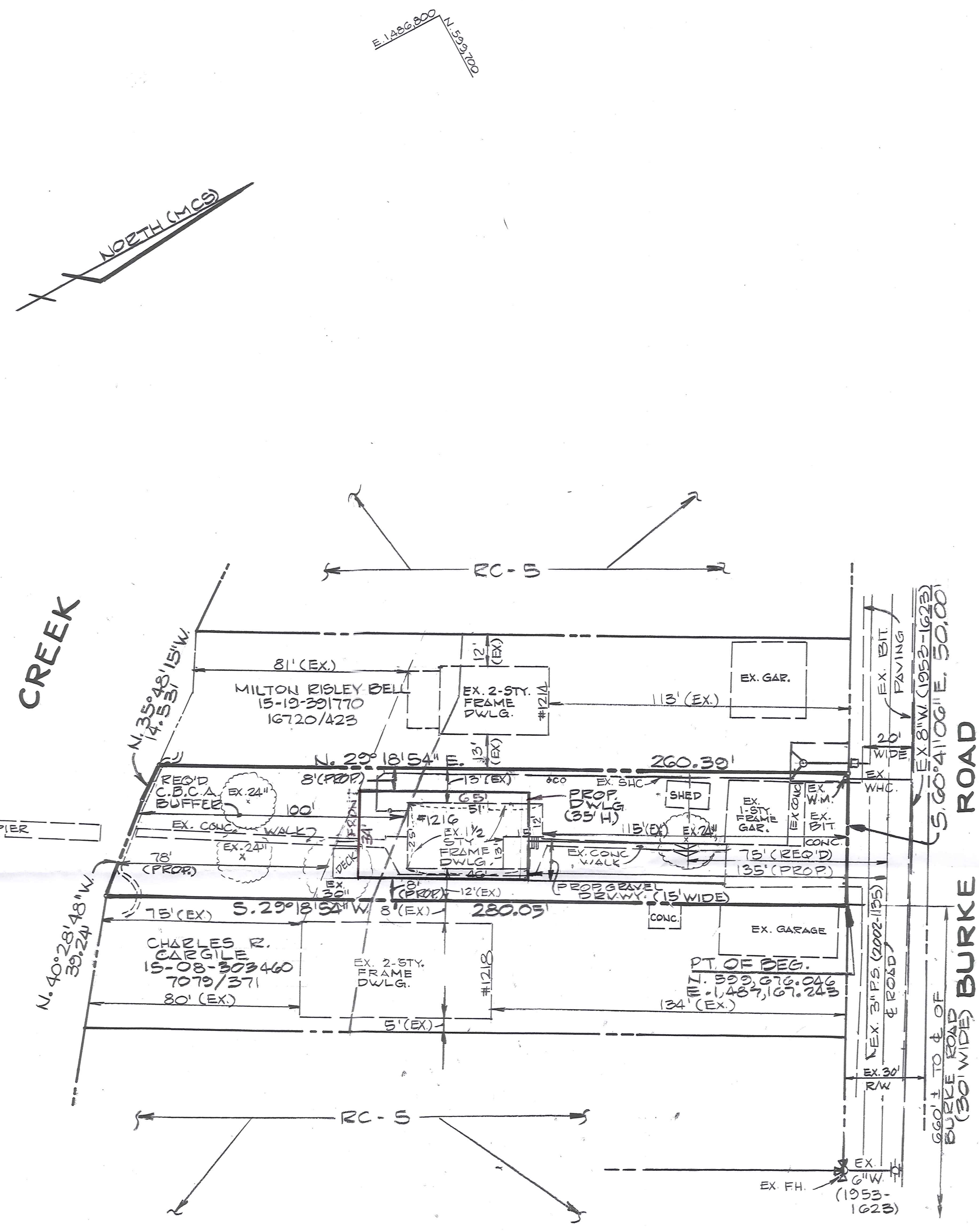
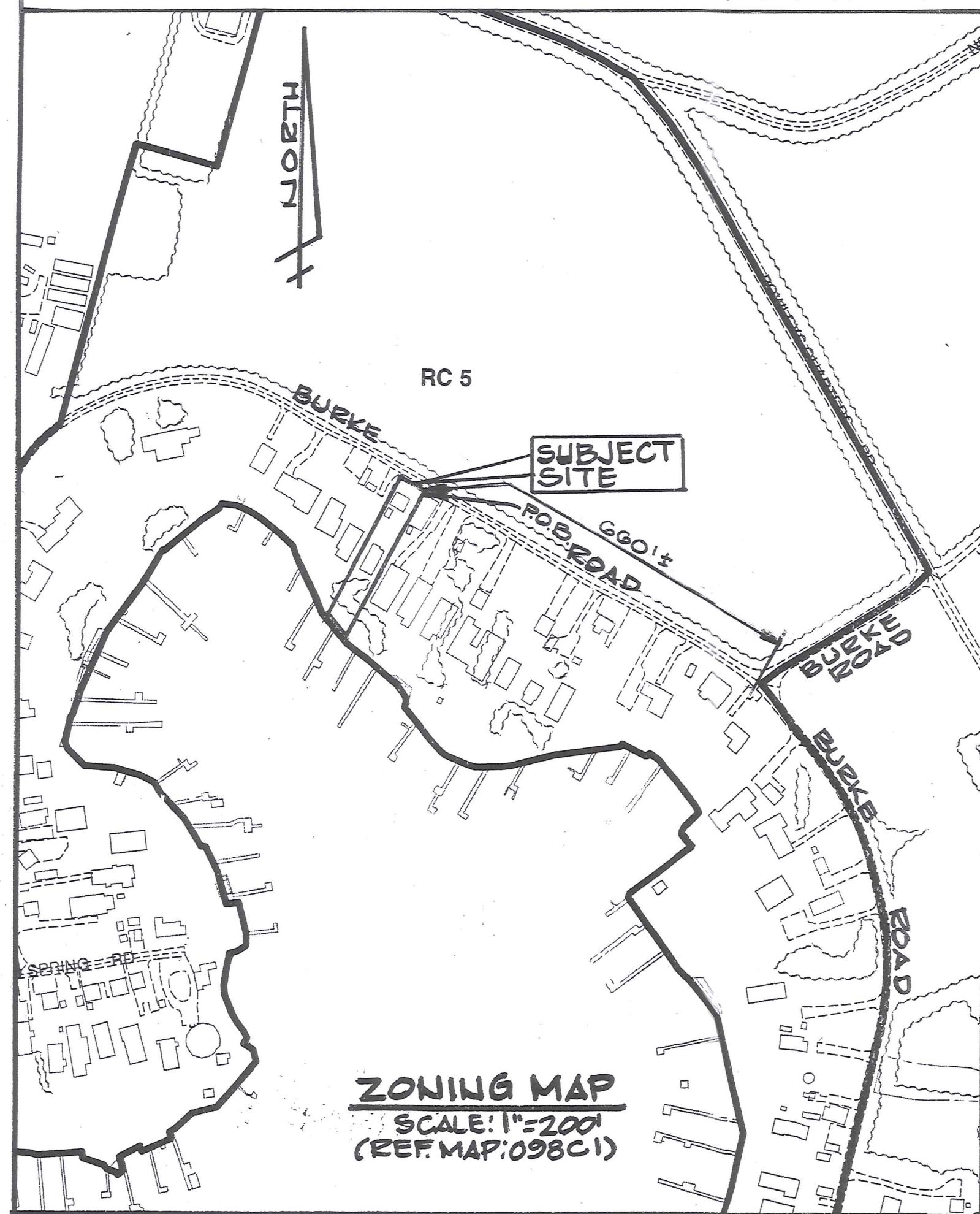
REQUEST: VARIANCE TO PERMIT A PROPOSED REPLACEMENT
DWELLING TO HAVE SIDE YARD SETBACKS OF 8 FEET EACH
IN LIEU OF THE REQUIRED 50 FEET EACH.

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

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING. UNDER PENALTY OF LAW

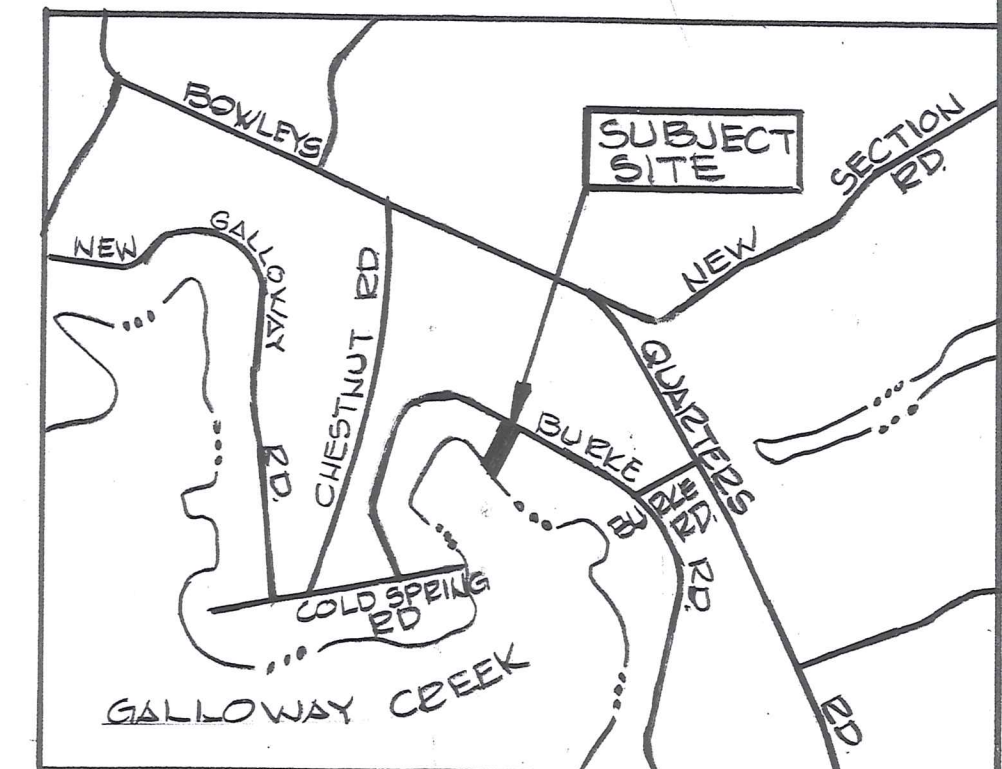
HANDICAPPED ACCESSIBLE

PLAT TO ACCOMPANY PETITION FOR ZONING: ☒ VARIANCE, ☐ SPECIAL EXCEPTION



NICHOLAS E. GALL,
& MARILYN J. GALL
13-07-001210

NOTE: EXISTING GARAGE AND
SHED ON SUBJECT SITE TO
REMAIN. EXISTING DWELLING
TO BE RAZED.



VICINITY MAP
SCALE: 1"=1000

LOCATION INFORMATION

ELECTION DISTRICT NO.: 15
COUNCILMANIC DISTRICT NO.: 6
ZONING: RC-5
(REFERENCE MAP(S): 098C1)
AREA OF SITE:
NET= 13,534 SF (0.31 AC)
GROSS=14,284 SF (0.33 AC)

	PUBLIC	PRIVATE
SEWER	☒	☐
WATER	☒	☐
CHESAPEAKE AREA CRITICAL AREA (LOA)	☒	☐
100 YEAR FLOODPLAIN (TIDAL)	☒	☐
HISTORIC PROPERTY / BUILDING	☐	☒
PRIOR ZONING HEARINGS: NONE		
CURRENT OR OUTSTANDING ZONING VIOLATIONS: NONE		

ZONING OFFICE USE ONLY

REVIEWED BY: *[Signature]* ITEM #: CASE # 2013-0096-A

PROPERTY DATA
OWNER: ANGELA ACITELLI
ALDO ACITELLI
3720 HEATON ROAD
HUNTINGDON VALLEY, PA 19006
ADDRESS: 1216 BURKE ROAD
BALTIMORE, MD 21220

PHONE NUMBER: 215-327-8448
TAX ACCOUNT NUMBER(S): 15-08-004920
DEED REF: 28763/094 PLAT: 7/12
NOTE: THIS SITE IS WITHIN A
BUFFER MANAGEMENT AREA
(BMA).



Drafting	TLB
Check	TAC
Design	
Check	DATE
	REVISIONS

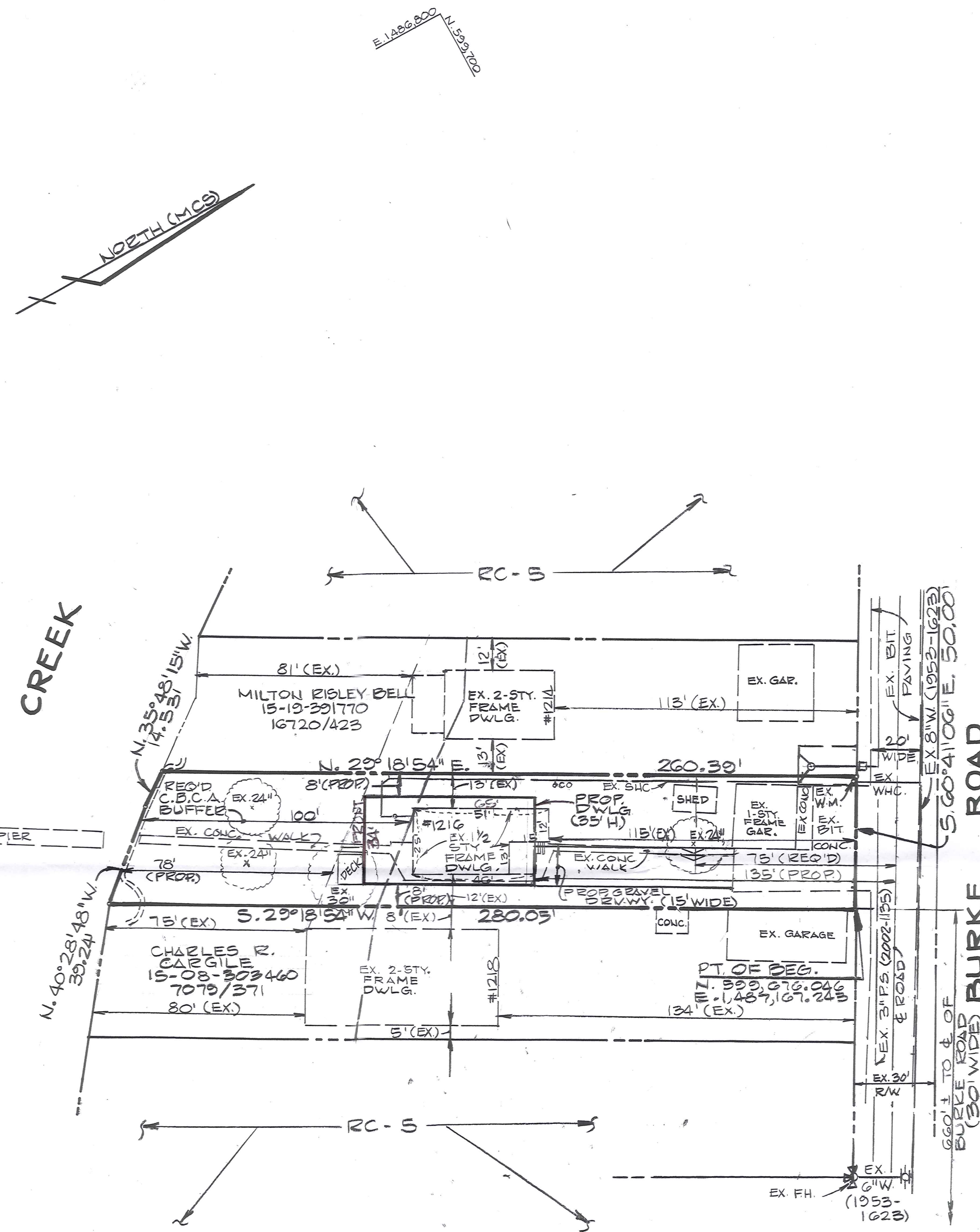
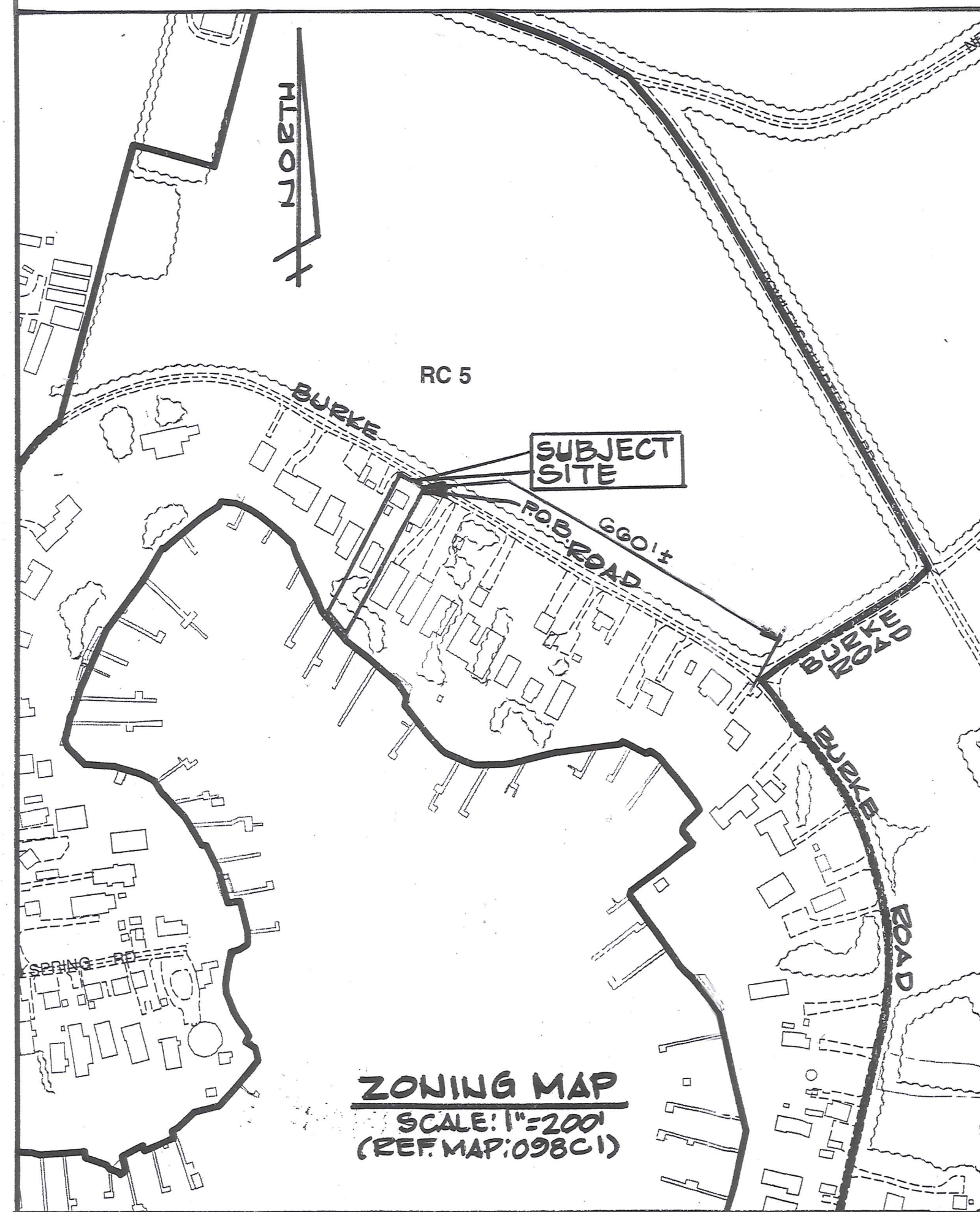
DEVELOPMENT ENGINEERING CONSULTANTS, INC.
SITE ENGINEERS & SURVEYORS
6603 YORK ROAD 410-377-2600 BALTIMORE, MARYLAND 21212

APPLICANT
ALDO ACITELLI
3720 HEATON ROAD
HUNTINGDON VALLEY, PA 19006
215-327-8448

PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE
SITE PLAN FOR
1216 BURKE ROAD
ELECTION DISTRICT 15 COUNCILMANIC DISTRICT 6
BALTIMORE COUNTY, MD

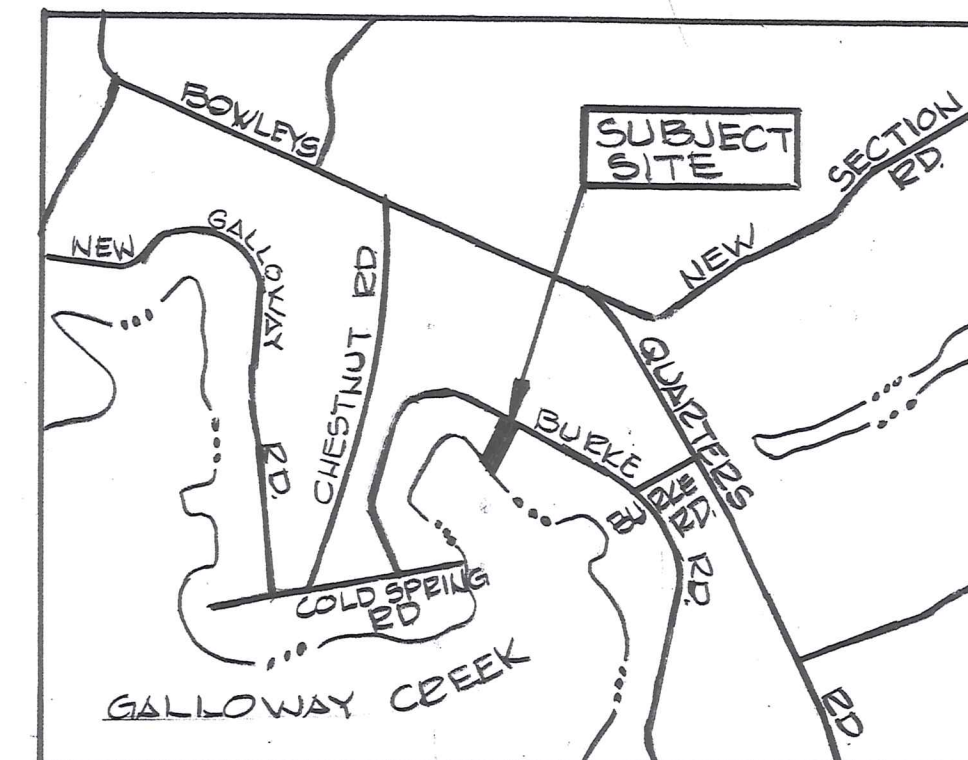
SHEET	DATE	CONTRACT
1	OCT 17, 2012	NUMBER
OF	SCALE	
	1"=30'	02-108

PLAT TO ACCOMPANY PETITION FOR ZONING: ☒ VARIANCE, ☐ SPECIAL EXCEPTION



NICHOLAS E. GALL,
E. MARILYN J. GALL
15-07-001210

NOTE: EXISTING GARAGE AND
SHED ON SUBJECT SITE TO
REMAIN. EXISTING DWELLING
TO BE RAZED.



VICINITY MAP
SCALE: 1"=1000'

LOCATION INFORMATION

ELECTION DISTRICT NO.: 15

COUNCILMANIC DISTRICT NO.: 6

ZONING: RC-5
(REFERENCE MAP(S): 098C1)

AREA OF SITE:
NET= 13,534 SF (0.31 AC)
GROSS= 14,284 SF (0.33 AC)

PUBLIC PRIVATE

SEWER ☒ ☐

WATER ☒ ☐

CHESAPEAKE AREA CRITICAL AREA
(LOA) ☒ ☐

100 YEAR FLOODPLAIN
(TIDAL) ☒ ☐

HISTORIC PROPERTY / BUILDING ☐ ☒

PRIOR ZONING HEARINGS: NONE

CURRENT OR OUTSTANDING
ZONING VIOLATIONS: NONE

ZONING OFFICE USE ONLY

REVIEWED BY: *[Signature]* ITEM # CASE # 2013-0096-A

PROPERTY DATA
OWNER: ANGELA ACITELLI
3720 HEATON ROAD
HUNTINGDON VALLEY, PA 19006
ADDRESS: 1216 BURKE ROAD
BALTIMORE, MD 21220

PHONE NUMBER: 215-327-8448

TAX ACCOUNT NUMBER(S): 15-08-004920

DEED REF: 28763/094 PLAT: 7/12

NOTE: THIS SITE IS WITHIN A
BUFFER MANAGEMENT AREA
(BMA).



PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE

SITE PLAN FOR
1216 BURKE ROAD
ELECTION DISTRICT 15 COUNCILMANIC DISTRICT 6
BALTIMORE COUNTY, MD

SHEET 1 OF 1
DATE OCT. 17, 2012
SCALE 1/4"=30'
CONTRACT NUMBER 02-108

DEVELOPMENT ENGINEERING CONSULTANTS, INC.
SITE ENGINEERS & SURVEYORS
6603 YORK ROAD 410-377-2600 BALTIMORE, MARYLAND 21212

APPLICANT
ALDO ACITELLI
3720 HEATON ROAD
HUNTINGDON VALLEY, PA 19006
215-327-8448

Drafting: TAC
Check: TAC
Design:
Check:
DATE: REVISIONS: