14-172-A

Circuit Court for Baltimore County
Case No. 03-C-15-009114

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1485

September Term, 2016

KARL KIESLING ET AL.

v.

ROBERT LONG

Eyler, Deborah S.,
Kehoe,
Arthur,

JJ.

Opinion by Kehoe, J.

File: October 24, 2017

— Unreported Opinion —

Karl Kiesling, Kevin Kauders, and Anne Franey appeal from a judgment of the Circuit Court for Baltimore County, the Honorable Paul J. Hanley presiding, which affirmed a decision of the Baltimore County Board of Appeals. The Board granted permission to Jean Marie Jones and Robert Long to build a house on a lot (the "Property") with a street address of 3505 Beach Road, Baltimore, Maryland.[1]

Background

A. The Property

The Property is located in the Middle River area of Baltimore County. The front and rear boundaries of the Property are Beach Road and Seneca Creek, respectively. Beach Road is a dead-end street which extends in a southeasterly direction from Seneca Park Road and terminates at a small park on the waters of Seneca Creek. In addition to the Property, there are four waterfront residential parcels on the southerly side of Beach Road. The northerly side of Beach Road abuts the side lot line of a single property that fronts on Seneca Park Road.

Mr. Kiesling, on one side, and Mr. Kauders and Ms. Franey, on the other, own the parcels immediately adjacent to the Property. The Property is 50 feet wide, approximately 175 feet deep, and has an area of 9,750 square feet. It is located within a residential

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[1] The zoning petition that eventually resulted in the Board's decision under review in this appeal was filed in February, 2014 by Jean Marie Jones. At the time the application was filed, Mr. Long was the contract purchaser. He acquired title while this case was pending.

subdivision known as "Seneca Beach Park," which was established by a plat recorded in the Baltimore County land records in 1926. For many years, the Property was improved by a house. This structure, along with many others located in the Seneca Beach Park neighborhood, was badly damaged by Hurricane Isabel in 2003. At that time, the Property was owned by Roy E. Jones and Jean Marie Jones. They were unable or unwilling to rebuild and what was left of the structure was demolished in 2005. At the time of the hearing before the Board, the Property was vacant except for two small storage sheds.

B. The Relevant Provisions of the BCZR

The Property is located in the County's "Rural Residential" (RC 5) zoning district. The Baltimore County Zoning Regulations ("BCZR") provide that: (1) the minimum size for lots within the RC-5 district is 1.5 acres, (2) the maximum permitted lot coverage is 15%, (3) the minimum front setback is 75 feet, and (4) the minimum side and rear setbacks are 50 feet. BCZR § 1A04.3B.2.b. Obviously, it is impossible to build a house on the Property while strictly complying to these regulations. The BCZR provides several at least arguably relevant avenues by which a property owner can seek this relief from the strict application of these regulations.

First, the BCZR permits property owners to carry on non-conforming uses and to maintain non-conforming structures. The prior house on the Property was a non-conforming structure. BCZR § 104.2 provides that, if a non-conforming structure is damaged or destroyed "by fire or other casualty," the structure can be rebuilt on the same

footprint within two years of the date of damage or destruction. If a property owner wishes to have a larger building, BCR § 104.3 authorizes a County administrative law judge and the Board to grant a variance to allow a property owner to increase the floor area of such a structure by no more than 25% when the building is repaired or replaced.

Second, BCZR § 1A04.3.B.4 states:

> Any existing lot or parcel of land with boundaries duly recorded among the land records of Baltimore County with the approval of the Baltimore County Department of Planning on or before the effective date of these zoning regulations and not part of an approved subdivision that cannot meet the minimum standards as provided within the zone may be approved for residential development in accordance with the standards prescribed in force at the time of the lot recordation.

Although this statute probably won't be inducted into the Punctuation Hall of Fame, its meaning is clear enough. Section 1A04.3.B.4 is a grandfathering law. It provides that a property in the RC 5 District does not have to comply with the current setback and lot coverage provisions of the BCZR if: (1) the lot had been conveyed by a deed recorded in the Baltimore County Land Records prior to the effective date of the RC 5 regulations, (2) the lot cannot be developed in conformance with the BCZR's minimum requirements for the zoning district within which the lot is located, and (3) the lot is not part of an approved subdivision.

There is another "grandfathering" provision in the RC 5 regulations. BCZR § 1A04.3.B.1.b states:

> The owner of a single lot of record that is not a subdivision and that is in existence prior to September 2, 2003, but does not meet the minimum acreage requirement, or does not meet the [RC 5] setback requirement[s], may apply for a

> special hearing under Article 5 to alter the minimum lot size requirement. However, the provisions of Section 1A04.4[2] may not be varied.

Section § 1A04.3.B.1.b refers to a "special hearing." BCZR § 500.7 states in pertinent part (emphasis added):

> [A County ALJ] shall have the power to conduct such other hearings and pass such *orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations*, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the [County's Office of Administrative Hearings] for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.

Finally, the BCZR provides property owners in any zoning district with the ability to seek variances from the strict application of the BCZR's development regulations.

Section 500.7 states in pertinent part (emphasis added):

> The [County's administrative law judges and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are *peculiar to the land or structure* which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in *practical difficulty or unreasonable hardship*.

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[2] BCZR § 1A04 sets out design standards for residential developments in the RC 5 District.

C. The Application

Mr. Jones passed away in 2008. In 2014, Ms. Jones, as owner, and Mr. Long, as contract purchaser, filed a zoning petition seeking a variance from the minimum lot size, lot coverage and setback provisions of the BCZR that we have previously summarized, as well as a variance from the strict application of CBRZ § 301.1[3] The petition described the requested relief as:

> Section 1A04.3 and 301.1 BCZR
>
> 1. To allow an area of 9,750 sq. ft. in lieu of the required 1 1/2 acres.
>
> 2. To allow an open projection deck with a setback of 13 ft. in lieu of the required 37 11/2 ft.
>
> 3. To allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively.
>
> 4. To allow a building coverage of 20% in lieu of the maximum required 15%.
>
> 5. To allow any variances deemed necessary by the administrative Law Judge.

This language was incorporated into the public notice of the hearing on the application. The zoning petition is a preprinted form available from the County's

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[3] Section 301.1 provides in pertinent part:

A. If attached to the main building, a carport or a one-story open porch, with or without a roof, may extend into any required yard not more than 25% of the minimum required depth of a front or rear yard or of the minimum required width of a side yard. Any carport or open porch so extended must be open on three sides.

. . .

Department of Permits, Approvals, and Inspections. It is a "check-the-box" form and contains a box—unchecked in this case—for a request for a special hearing.

Prior to any hearings, the application was reviewed by several County agencies, including the Department of Environmental Protection and Sustainability. None of these agencies voiced misgivings about the proposal.[4]

The application was subject to a public hearing before a County administrative law judge. In a written decision dated April 23, 2014, the ALJ granted the application but with some modifications. First, the ALJ imposed a 10 foot side setback instead of the 9 foot setback requested by the applicants. Second, the ALJ limited the size of the new structure to not more than 125% of the footprint of the residence that existed before Hurricane Isabel. The ALJ imposed these modifications out of a concern that the size of the proposed structure would "'dwarf' a neighboring dwelling" and "severely restrict that owner's view of Seneca Creek."

Appellants appealed the ALJ's decision to the Board. After two postponements for procedural reasons, the Board held a de novo hearing on the application on January 5, 2015. At the hearing, appellee's counsel suggested to the Board that, as an alternative to

[4] The Property is in the Chesapeake Bay Critical Area and is therefore subject to the County's Critical Area Program. The County Department of Environmental Protection and Sustainability ("DEPS") reviewed the application and concluded that, although off-site mitigation would be required, the project would comply with the County's Program as long as the total lot coverage did not exceed 31.25%. The proposed building will occupy 20% of the Property. Appellants do not argue that the proposed development violates the County's Critical Area program.

seeking a variance, appellee was entitled to relief pursuant through the BCZR's special hearing procedure. Appellants' counsel objected to this. After the evidentiary phase of the hearing was concluded, the Board permitted counsel for the parties to submit post-hearing memoranda.

After considering the testimony and legal argument by counsel, the Board decided to grant the request described in the application and filed a written decision to that effect on July 23, 2015. We will discuss portions of the Board's opinion later; for the present, it is sufficient to note that the Board decided that it was not necessary for appellee to obtain a variance from the RC 5 District's minimum lot size requirement of 1.5 acres. Additionally, the Board reasoned that appellee was entitled to relief either through application of the RC 5 grandfathering regulations or by a variance. The Board analyzed the evidence under both approaches and concluded that appellee was entitled to the relief he sought under each of them.

Appellants filed a timely petition for judicial review. The circuit court affirmed the Board's decision. This appeal followed.

Appellants present the following contentions, which we have reworded and reordered:

> 1. Did the Board err by permitting appellee to seek relief on grounds that were not set forth in the zoning petition?
>
> 2. Did the Board err by deciding that appellee did not require a variance?
>
> 3. Did the Board err by permitting appellee to build a non-conforming structure on the Property more than two years after the destruction of the prior structure?

4. Did the Board err in finding that the appellee met the criteria for relief under the BCZR's special hearing provision?

5. Did the Board err in finding that appellee met the criteria for a variance?

The Standard of Review

In a judicial review proceeding, the issue before an appellate court "is not whether the circuit . . . court erred, but rather whether the administrative agency erred." *Bayly Crossing, LLC v. Consumer Protection Division*, 417 Md. 128, 136 (2010) (citations, internal quotation marks, and brackets omitted). For that reason, we "look through" the circuit court's decision, in order to "evaluate the decision of the agency" itself. *People's Counsel for Baltimore County v. Loyola College*, 406 Md. 54, 66 (2008).

In quasi-judicial proceedings, administrative agencies like the Board typically perform three functions: (1) making findings of fact; (2) identifying and interpreting the relevant legal standards; and (3) applying the law to the facts. Courts accept an agency's factual findings if they are supported by substantial evidence, that is, if there is relevant evidence in the record that logically supports the agency's factual conclusions. *Bayly Crossing*, 417 Md. at 139. An agency's application of the law to the evidence presents a mixed question of law and fact. If the agency has correctly identified the applicable legal standard, courts of review defer to the agency's application of the law to the facts before it, as long as the findings are supported by substantial evidence. *See Baltimore Lutheran High School Assoc. v. Employment Security Administration*, 302 Md. 649, 662 (1985). Although a reviewing court is not bound by the agency's legal conclusions, we

"frequently give weight to an agency's experience in interpretation of a statute that it administers." *Schwartz v. Maryland Department of Natural Resources*, 385 Md. 534, 554 (2005). Finally, "[a]n agency's decision is to be reviewed in the light most favorable to it and is presumed to be valid." *Assateague Coastal Trust v. Schwalbach*, 448 Md. 112, 124 (2016) (citation and quotation marks omitted).

Analysis

1. Was the Public Notice Legally Adequate?

As we have related, at the hearing before the Board, appellee's counsel suggested that appellee was entitled to relief through the grandfathering provisions of the BCZR by means of a special hearing as well as by a variance. Over the objection of appellants' counsel, the Board considered this argument and eventually granted appellee the relief he sought on both grounds. Appellants contend that the Board erred in doing so. They point out that appellee's petition requested only a variance. They argue that they were prejudiced at the hearing because they were not prepared to present evidence as to the compatibility of appellees' proposal, and that the Board violated appellants' right to due process and a fair hearing by permitting appellee to present a basis for relief that was not identified in the zoning petition and the public notice,

This argument is not persuasive. The petition and the Board's notice of the hearing contained the same substantive information. Public notice of an administrative hearing is sufficient if it informs the public "clearly of the character of the action proposed and enough of the basis upon which it rest[s] to enable them to intelligently prepare for the

hearing." *Cassidy v. Board of Appeals of Baltimore County*, 218 Md. 418, 425 (1958) (citation and quotation marks omitted). This standard has been reaffirmed in more recent cases. *See Baltimore St. Parking Co., LLC v. Mayor & City Council of Baltimore,* 194 Md. App. 569, 593–94 (2010); and *O'Donnell v. Basslers*, 56 Md. App. 507, 519 (1983).

The Board's public notice reiterated the information that was set out in the zoning petition, namely, that appellee sought variances from the minimum lot size, lot coverage, and front, side and rear setbacks "to allow a replacement dwelling." In our view, this clearly informed the appellants and other members of the public that appellee was seeking permission to build a house on the Property. This was sufficient for them to "intelligently prepare for the hearing."

In this context, the Court's analysis in *Cassidy* is instructive. In that case, the property owner filed an application to rezone property from residential to heavy manufacturing. 218 Md. at 422. After the public hearing, the Board granted a special exception for the use intended by the applicant (a power plant), in lieu of rezoning the property. In response to a challenge to the Board's decision very similar to the one presented by appellants, the Court noted that the applicant had applied for "the least restricted, category of zoning in Baltimore County. . . . Anyone who attended the hearing prepared to defeat the above request would likewise have been prepared to defeat the grant of a special exception[.]" *Id.* at 425–26.

Finally, any error on the Board's part was harmless because the Board also granted appellee a variance from the relevant BCZR regulations.

2. Was Appellee Required to Obtain a Variance from the Minimum Lot Size Requirements of the RC 5 District?

As we have noted, the BCZR establishes a minimum lot size in the RC 5 District of 1.5 acres. *See* BCZR § 1A04.03B.1.a. In his petition, and among other relief, appellee requested a variance from the strict application of that regulation. In its decision, the Board concluded that he did not require such a variance. The Board's reasoning was based on its interpretation of BCZR § 1A04.3.B.1.4, which, as we have explained, permits residential development of a nonconforming lot in the RC 5 District if (1) the lot had been conveyed by a deed recorded in the Baltimore County Land Records prior to the effective date of the RC 5 regulations, (2) the lot cannot be developed in conformance with the RC 5 District's minimum requirements, and (3) the lot is not part of an approved subdivision.

The record before the Board indicates that the Property was first conveyed in 1934. In its opinion, the Board stated that this conveyance predated the County's first zoning ordinance. The Board was correct; the County was not authorized to exercise zoning powers until 1941, when the General Assembly enacted the Baltimore County Zoning Enabling Act. *See Temmink v. Board of Zoning Appeals*, 205 Md. 489, 493 (1954). Appellants do not contest that strict application of the current RC 5 regulations render development of the Property impossible. Appellants assert, however, that the Property does not satisfy the third requirement. Therefore, according to them, § 1A04.3.B.4 is inapplicable. In their brief, they assert:

> The preparation and recording of the Plat of Seneca Park Beach represents precisely the act described in BCZR § 101.1. Specifically, the original parcel of land was divided into multiple lots for building development, which process included the extensive modification of street and lot lines. Moreover, at a minimum, the plat was accepted for recording among the Land Records of Baltimore County, meaning the subdivision was "approved" to the fullest extent possible and necessary at the time of the subdivision.

We do not agree for two reasons. First, there is no documentation in the record that suggests that any government agency reviewed and approved the subdivision plat prior to its recordation. Appellants hypothesize that the Clerk of the Circuit Court must have reviewed the plat prior to accepting it for recordation but they do not identify any law that imposed such an obligation upon the clerk in 1926. Second, in this case, it is appropriate for us to consider the Board's construction of the statute, which was that the term "approved" refers to subdivision approval by a County agency. We are not bound by the Board's interpretation but we may give it weight. We agree with the Board. We hold that the phrase "approved subdivision" in § 1A04.3.B.4 means that lots which otherwise meet the statute's criteria do not fall within the § 1A04.3.B.4's remedial ambit if they were established by a plat that had been approved through the County's subdivision review process, which is currently found in Article 32, Title 4 of the Baltimore County Code. Because the Seneca Park Beach plat was not approved in this fashion, the statute applies to the Property. The Board was correct when it decided that appellee did not need a variance from the minimum lot size standard for the RC 5 District.

3. Did the Prior Owner's Failure to Rebuild Within Two Years Affect Appellee's Ability to Seek Relief?

BCZR § 104.2 provides that a non-conforming structure can be rebuilt within two years after it is damaged or destroyed by a fire or similar catastrophe. Appellants concede that § 104.2 provides a two-year window to the Joneses to rebuild their home and further concede that the two year period began when the house on the Property was demolished in 2005. However, they note that the variance petition was not filed until 2014. From this premise, they contend:

> By electing to allow that amount of time to pass, the Appellee's predecessors in title forfeited their right to the benefit of BCZR § 1A04.2 and must abide by the consequences. Furthermore, the consequences of that election bind the Appellee as the successor to Mr. and Mrs. Jones.
>
> The actions of the Appellee and his predecessors in title have created a status quo in which the Property has remained unimproved and vacant for nearly ten years, without placing undue burden on the community and the Chesapeake Bay and its tributaries. Strict compliance with the applicable regulations would merely maintain that status, which result should have been encouraged by the Board. Instead, the Board and the Circuit Court ignored that reality and imposed a significant burden on the community and the adjacent waters.

Appellants point to no legal authority to support their contention and it is otherwise not persuasive. Without belaboring the point, non-conforming use statutes such as § 104.2 permit property owners to rebuild the destroyed or damaged structure as a matter of right. If an owner fails to rebuild within the statutory window, then he or she forfeits the *right* to rebuild and must obtain a variance or other administrative relief before doing so. This is what happened in the present case.

4. Did the Board misapply the standards for granting relief through the special hearing process?

In its opinion, the Board read the two grandfathering provisions of the RC 5 regulations in conjunction with one another. The Board concluded that the Property was grandfathered pursuant to BCZR § 1A.0.3.B.4, and that § 1A04.3.B.1.b requires review of appellee's requested relief through the special hearing process. Further, the Board decided it did not have the authority to waive compliance with the relevant RC 5 development standards set out in BCZR § 1A04.4.

The statute that establishes the special hearing remedy, BCZR § 500.7, does not contain specific standards for granting relief. The Board stated that "the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing would be compatible with the community and generally consistent with the spirit and intent of the regulations." The Board then turned to BCZR § 502.1[5] and, applying those standards, concluded that:

[5] BCZR § 502.1 states:

> Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:
>
> A. Be detrimental to the health, safety or general welfare of the locality involved;
>
> B. Tend to create congestion in roads, streets or alleys therein;
>
> C. Create a potential hazard from fire, panic or other danger;
>
> D. Tend to overcrowd land and cause undue concentration of population;

> the requested relief does not adversely impact the health safety and welfare of the community and is consistent with the intent of the RC 5 regulations.

Appellants do not question the logic which led to the Board's conclusion that the appropriate test was whether appellee's proposal was compatible with neighboring properties. They do challenge, however, the Board's finding that the house proposed by appellee would be compatible. Specifically, appellants argue that their testimony at the hearing established that (1) construction of appellee's house would pose a fire hazard to Mr. Kiesling's home because the two homes would only be 11 feet apart; (2) appellee's home "would be inconsistent with the rest of the neighborhood because it would be built on a substantially larger footprint than the prior dwelling"; (3) appellee's proposed house "would effectively create a wall of houses along Beach Road, with a minimal gap between houses," with the result that the community would resemble a townhouse development"; (4) construction of the house would limit appellants' views of Seneca

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> E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
>
> F. Interfere with adequate light and air;
>
> G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;
>
> H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor
>
> I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone.

Creek from their residence; (5) the Property was subject to flooding and any attempts at remediation would negatively affect appellants and the waters of Seneca Creek by increasing run-off and pollution from fertilizers; and (6) construction of the proposed house would create traffic and parking problems on Beach Road.

The Board was not required to credit this testimony. For example, Mr. Kiesling, who raised the traffic and parking concerns, also testified that there were currently no parking or traffic problems on Beach Road. {E. 167} His concern about a fire hazard was expressed as a "possibility," without further explanation. Both Mr. Kiesling and Mr. Kauder have unobstructed views of Seneca Creek over the Property but, as the Board noted in its opinion, absent an express easement, "there is no right to a water view across another's property."[6] The Board also observed that appellants did not offer any expert testimony to support their traffic and environmental concerns. Appellee's proposed house is smaller than Mr. Kiesling's existing home and would be set further back from the street than either of the Kiesling and Kauder residences.

Bernadette Moskunas, appellee's expert witness, testified that the proposed house would not adversely affect the health, safety, and welfare of the surrounding properties. None of the reports from the various County agencies that reviewed the project identified any negative impacts that would occur if appellee's project was approved. Ms.

[6] The appellants, of course, have views of the creek over their own properties.

Moskunas's testimony and the agency reports constituted a sufficient evidentiary basis to support the Board's finding.

5. Did the Board misapply the standards for granting a variance?

BCZR § 307.1 authorizes the Board to grant variances from height and area regulations when the applicant demonstrates that there are "special circumstances or conditions peculiar to the land . . .which is the subject of the variance request", and that strict compliance with the regulations would result in "practical difficulty or unreasonable hardship" to the applicant. Further, any variance actually granted must be "in strict harmony with the spirit and intent" of the regulations at issue and the specific relief must not injure the public health, safety and general welfare.

As an alternative basis for its decision, the Board granted a variance to appellee. It found that the Property was "different from other properties in the vicinity." Additionally, the Board found that strict application of the County zoning regulations imposed a practical difficulty upon appellee because "there is no location on the property where a residence could be constructed in compliance with the BCZR."

Appellants contend that the Board erred. They assert that (1) any practical difficulty is not related to the Property's dimensions and location; (2) granting the variance would be inconsistent with the spirit and intent of the BCZR; (3) a variance was inappropriate because any hardship was self-imposed; and (4) the variance imposes a substantial harm upon other residents in the community.

As this Court has explained, an administrative decision to grant a variance is a three-step process

> The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is—in and of itself—unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that first step results in a supportable finding of uniqueness or unusualness, then a second step is taken in the process, i.e., a determination of whether practical difficulty and/or unreasonable hardship, resulting from the disproportionate impact of the ordinance caused by the property's uniqueness, exists. Further consideration must then be given to the general purposes of the zoning ordinance.

Cromwell v. Ward, 102 Md. App. 691, 694–95 (1995) (footnote deleted).

Appellee certainly satisfied the first two criteria. Although the Property is approximately the same size as appellants' lots, all three are significantly smaller than most of the other properties in the Seneca Park Beach subdivision.[7] This fact satisfies the "unique, unusual, or different" criterion. Imposition of the County's setback requirements

[7] Although most of the lots in the Seneca Park Beach subdivision are 50 feet wide, they vary widely in depth. A copy of the 1928 subdivision plat was introduced by appellee at the Board's hearing. According to that plat, the side boundary lines of the Property were 170 and 180 feet long—about the same as they were at the time of the Board's hearing. In contrast, other waterfront lots were larger. For example, Lots 15 through 50 extended from 300 to 480 feet back from Seneca Park Road to the water. The same is true of inland lots. For example, Lots 117 through 148 were depicted on the 1928 plat as being approximately 400 feet deep. The discrepancy in lot sizes is confirmed by a contemporary aerial photograph of a portion of the community introduced into evidence by appellee.

renders it impossible for appellee to locate a structure on the Property. This is certainly a practical difficulty "resulting from the disproportionate impact of the ordinance caused by the property's uniqueness[.]"

Moving to the third step, there is no doubt that one of the purposes of the RC 5 regulations is to further the goals of the State's Critical Area laws. *See* BCZR §§ 1A00.2 E; 1A04.1.B.3. The County's Critical Area program recognizes the necessity of permitting in-fill development as long as the effects of that development are mitigated. As we previously noted, the County's Department of Environmental Protection and Sustainability reviewed the application and concluded that, although off-site mitigation would be required, the project would comply with the County's Program as long as the total lot coverage did not exceed 31.25%. The proposed building will occupy 20% of the Property. The variance in this case is consistent with the critical—no pun intended—legislative purpose of the BCZR.

Appellants' argument that the hardship is self-imposed is based on the premise that the Joneses were required to rebuild within two years after demolition. As we have explained, this premise is incorrect. Equally unpersuasive is appellants' contention that the variance imposes a hardship on the community. The reality is quite to the contrary. The Board's decision will allow appellee to build a home on the Property, which is nothing more than what appellants and many other property owners in Seneca Beach Park have already done.

In conclusion, the Board was legally correct when it decided that the grandfathering provisions of the RC 5 regulations applied to the Property, that the appellee could obtain relief from the strict application of the RC 5 setback and lot coverage rules either through a special hearing or a variance, and that compatibility with the neighborhood was the operative standard for relief through a special hearing. The Board's factual findings were consistent with the applicable law and supported by substantial evidence. We affirm the Board's decision.

THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY IS AFFIRMED. APPELLANTS TO PAY COSTS.

14-172-A

KARL KIESSLING, et. al	*	**IN THE**
Petitioners	*	**CIRCUIT COURT**
v.	*	**FOR**
ROBERT LONG	*	**BALTIMORE COUNTY**
Respondent	*	
	*	**CASE NO. 03-C-15-9114**

* *

MEMORANDUM OPINION

This matter came before the Court on May 9, 2016 for a hearing on Petitioners' Memorandum in Support of Petition for Judicial Review (Paper #1000), Petitioners' Memorandum of Law in Support of Petition for Judicial Review (Paper #14000) and Respondents Memorandum in Opposition to Petition for Judicial Review (Paper #15000). Bruce Covahey, Esq. appeared on behalf of the Petitioners and Lawrence E. Schmidt, Esq. appeared on behalf of the Respondent. At the heart of the dispute is whether the granting of Respondent's requested zoning relief before the Board of Appeals (hereinafter "the Board") was proper.

STANDARD OF REVIEW

In reviewing a decision of an administrative agency, such as the Board, on a petition for judicial review, the decision of the that agency may only be reversed if the agency's determination is unconstitutional, exceeds the authority or jurisdiction of the final decision maker, results from an unlawful procedure, is affected by any other error of law, is unsupported by competent, material and substantial evidence or is arbitrary or capricious. Md Code Ann. State Gov't §10-222(h).

Upon a review of the file and hearing the arguments of counsel, significant portions of §10-222(h) appear inapplicable. There is no claim that the decision of the Board was unconstitutional, exceeded the authority or jurisdiction of the Board, or was arbitrary or

capricious. All five of the alleged errors contained in Petitioners' Memorandum of Law (Paper #14000) speak to a lack of evidentiary support, errors of law, a mixed question of law and fact or an unlawful procedure.

In an administrative appeal, the appellant bears the burden of establishing an error of law or that the agency's final decision was not supported by substantial evidence. *Doe v. Allegany County Dept. of Social Services*, 205 Md.App. 47, *cert. denied*, 427 Md. 609 (2012). In conducting the review, the Court is to review the decision in the light most favorable to the agency as decisions of administrative agencies are *prima facie* correct. *Maryland State Police v. Lindsey*, 318 Md. 325, 334 (1990).

In weighing the sufficiency of the evidence, a threshold standard of "substantial evidence" must be met. The parties here agree that the measure of "substantial evidence" is "more than a scintilla of evidence," such that a reasoning mind reasonably could have reached the same factual conclusion as the agency. *Lindsey*, 318 Md. at 333 (citing *Bulluck*, 238 Md. at 512). Furthermore, the Court should endeavor not to "substitute its judgment for the expertise of those persons who constitute the administrative agency from which the appeal is taken" and should exercise restrained and disciplined judicial judgment. *Grasslands Plantation, Inc. v. Frizz-King Enterprises, LLC*, 410 Md. 191, 203-204 (2009) (quoting *Bulluck v. Pelham Wood Apartments*, 283 Md. 505, 513 (1978); *Liberty Nursing Center, Inc. v. Department of Health and Mental Hygiene*, 330 Md. 433, 442 (1993). Finally, the reviewing Court is to give deference to the factual findings and inferences of the agency if they are supported by the record. *Maryland Aviation Administration v. Noland*, 386 Md. 556, 571 (2005).

With regard to the application of the law, a reviewing Court is not bound by an erroneous conclusion of law. An administrative agency's interpretation and application of the statute which

the agency administers, or its interpretation and application of its own regulation, should ordinarily be given considerable weight by reviewing courts. *Oltman v. Maryland State Bd. Of Physicians*, 2005, 875 A.2d 200, 162 Md.App. 457, cert. denied 883 A.2d 915, 389 Md (2005).

DISCUSSION

Petitioners alleged four errors at the May 9 hearing before this Court:

1) The Board erred in determining that no variance was needed, which amounted to legal error on the part of the Board.
2) The Board erred in concluding that the property was unique for zoning purposes and in determining that a variance was warranted under the standard laid out in *Cromwell v. Ward*, specifically that the subject property was sufficiently unique.
3) The Board erred in concluding that special hearing relief was available to Respondents which amounted to legal error on the part of the Board.
4) The Board erred by granting relief on grounds not stated in the petition which amounted to legal error on the part of the Board.

Each allegation of error will be addressed in turn.

A. Whether a Variance was Needed

Petitioners first contend that the Board erred in determining no variance was needed. Section 1a04.3.b.4 of the Baltimore County Zoning Regulations provides an exception to the variance requirement if three conditions are met. First, the subject property must have been recorded prior to the effective date of the governing zoning regulations; second, the lot must not be part of an approved subdivision; and third, the lot must not be able to be developed in conformance with the minimum requirements provided in the zone. Petitioners concede the first and third elements are met. They take issue with the Board's conclusion that the second

requirement was met. Respondents argue that the lot was approved to the fullest extent possible in the zoning regulations at the time, and therefore the property qualifies as an approved subdivision. In giving considerable weight to the determination by the Board, the Court finds there is not clear and satisfactory evidence of any illegality in the Board's determination. Simply put, this Court finds there was no subdivision process in effect at the time of the recording of this property, and therefore, the Court finds no error in the Board's determination.

B. Uniqueness of Property; *Cromwell v. Ward*

Petitioner next contends that the Board erred in addressing the variance requirements and arriving at the conclusion that the variance standard was met. Specifically, the Petitioners contend that the Board erred in determining that the property was unique. *Cromwell v. Ward* sets the standard for granting variances in a two-step process.

> "The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is-in and of itself-unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that first step results in a supportable finding of uniqueness or unusualness, then a second step is taken in the process, *i.e.,* a determination of whether practical difficulty and/or unreasonable hardship, resulting from the disproportionate impact of the ordinance *caused by* the property's uniqueness, exists."

Cromwell v. Ward, 102 Md.App 691, 694-695 (1995). Petitioners launch multiple attacks on the Board's application of this test. First, Petitioners assert that there were no facts presented to the Board which warranted a finding of uniqueness. Second, Petitioners argue that any alleged uniqueness is not the cause of any disproportionate impact on the property. Finally, Petitioners assert that the legal standard for finding a practical difficulty and/or undue hardship has not been met.

The Board's finding of uniqueness is a finding of fact that is measured against the substantial evidence test outlined above, Here, the length of the property and the contours of the

shoreline were both presented as evidence of uniqueness and the Board found the evidence presented sufficient to make such a finding. Based on the deferential nature of the standard above, and the fact that more than a scintilla of evidence was presented, this Court finds the evidence presented was sufficient to substantiate a finding of uniqueness such that reasoning minds could have reasonably reached the same conclusion as the Board, and thus, finds no error in that finding.

Regarding whether there has been a disproportionate impact caused by uniqueness, the Petitioners assert that the alleged uniqueness here, *ie.* the uneven property line lengths and the shoreline contour, do not cause the disproportionate impact. According to Petitioners, the inadequate side setbacks, notwithstanding any imperfections in the shape of the property, are truly what renders the property unbuildable. The Court here is not to endeavor to substitute its own judgment for that of the Board's and further, should give the fact findings of the Board a degree of deference. As such, there is nothing in the record which causes this Court to disturb the finding that the disproportionate impact was caused by the property's uniqueness.

To determine whether a practical difficulty or undue hardship exists, there must be an examination of three factors:

> 1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
> 2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
> 3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

McLean v. Soley, 270 Md. 208, 214-215 (1973). Petitioners acknowledge in regard to the first factor that strict compliance with the zoning regulations would preclude the building of any

dwelling, however, Petitioners argue the inability to build was self-inflicted.[1] With regard to the second factor, Petitioners argue there was testimony regarding multiple impacts to the neighbors if the proposed relief were granted such as the creation of fire hazards because of an inadequate setback; the proposed dwelling being larger than the previous dwelling and thus inconsistent with the rest of the neighborhood and affecting the views of other property owners of the shoreline; the potential of flooding on the property which could runoff into a tributary of the Chesapeake Bay or neighboring properties; as well as increased traffic and parking issues on beach roads. With regard to the third factor, Petitioners argue the spirit and intent of the zoning regulation in RC-5 zoned properties is to preserve the Chesapeake Bay and preserve resources and rural character, and any impact here would necessarily impact the Bay, and thus, contrary to the spirit and intent of RC-5 zoning. Despite Petitioners contention, there is nothing within the record which shows that the Board's application of the *McLean* factors was erroneous, and as such, the Court will not disturb the Board's findings.

C. Special Hearing Relief

Petitioners argue that the Board's determination that special hearing relief was available pursuant to BCZR 1a.04.3.b.1.b.1. To be eligible for special hearing relief, the owner of a single lot must: not be a part of a subdivision, be in existence prior to September 2, 2003, and does not meet the minimum acreage or setback requirement. Petitioners concede the latter two requirements are met; however, Petitioners assert the same argument as to a subdivision that was asserted in discussing the determination that no variance was needed with the caveat that the requirement here does not include an "approved subdivision." Furthermore, special hearing

[1] BCZR 104.2 provides any structure that represents a non-conforming use, such as the previous structure, which is damaged by fire or other casualty, may be restored within two years of such damage but may not be enlarged. Here, Petitioners argue that the Respondents failed to avail themselves of this provision and thus caused their own practical difficulty.

relief is only warranted where the proposed use of the property would not adversely impact the health, safety and welfare of the community and such use is generally consistent with the spirit and intent of the legislature. Petitioner incorporated their argument regarding this requirement through reference to the negative affects asserted in discussing the Cromwell standard above.

The Court incorporates its ruling above in subsection A as to the determination of whether the property is part of a subdivision and subsection B as to the adverse impact of the property and intent of the legislature, and therefore, finds no legal error in the Board's finding that special hearing relief was warranted.

D. Grounds for Granting Petition

Petitioners finally argue that the Respondents basis for requesting a variance at the hearing substantially deviated from the grounds raised in the petition, prejudicing Petitioners by depriving them of the due process requirements of notice and an opportunity to be heard. However, Appellees correctly point out that no rules of pleading exists before the Board of Appeals, and further, the parties were permitted to submit memoranda following the proceeding and prior to the Board rendering a decision. Accordingly, for the foregoing reasons Petitioners appeal will be dismissed. Order to be signed

Paul J. Hanley, Associate Judge

True Copy Test
JULIE L. ENSOR, Clerk
Per
Assistant Clerk

14-172-A

KARL KIESSLING, et. al	*	**IN THE**
Petitioners	*	**CIRCUIT COURT**
v.	*	**FOR**
ROBERT LONG	*	**BALTIMORE COUNTY**
Respondent	*	
	*	**CASE NO. 03-C-15-9114**

* *

ORDER

For the reasons set forth in the foregoing Memorandum Opinion of this date,

It is this 12 day of August 2016

ORDERED that the decision of the Board of Appeals is **AFFIRMED.**

Paul J. Hanley, Associate Judge

Clerk to:
1) Docket Order
2) Send copies to all parties

True Copy Test
JULIE L. ENSOR, Clerk
Per _____
Assistant Clerk

RECEIVED
AUG 22 2016
BALTIMORE COUNTY
BOARD OF APPEALS

FILED AUG 18 2016

14-172-A

CIRCUIT COURT FOR BALTIMORE COUNTY
Julie L. Ensor
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

N O T I C E O F H E A R I N G / T R I A L

Case Number: 03-C-15-009114 AA
C I V I L

In the Matter of Karl Kiessling, et al

STATE OF MARYLAND, BALTIMORE COUNTY COUNTY, TO WIT:

TO: Baltimore County Board Of Appeals
105 W Chesapeake Ave
Suite 203
Towson, MD 21204

You are hereby NOTIFIED TO APPEAR before a Judge of the:

CIRCUIT COURT FOR BALTIMORE COUNTY
County Courts Building
401 Bosley Avenue
Towson, MD 21285-6754

Court date:
March 31, 2016
At: 09:30 AM
Civil Non-Jury Trial
1/2 HOUR ADMINISTRATIVE APPEAL; RESET FROM 2/2/16
AGREED DATE

PLEASE NOTE: All counsel are expected to confer with each other with regard to the assigned trial date and to advise the court and other parties of any pre-existing conflict promptly.

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans wit Disabilities Act, please contact the Civil Assignment Office at (410)-887-2660 or use the Court's TDD line, (410) 887-3081, or or the Voice/TDD M.D. Relay Service, (800) 735-2258.

Application for postponement must be made in writing with copies to all attorneys.

Please refer to Information Desk for Court Room Designation.

Camera Phones Prohibited: Pursuant to Md. Rule 16-109 b.3., **camer and recording equipment are strictly prohibited** in courtrooms and adjacent hallways. This means that camera cell phones should not brought with you on the day of your hearing to the Courthouse.

Assignment Clerk: Levee Bethany
Assignment Office Phone: (410)-887-2660

Date Issued: 11/23/15

14-1104-11

NOTICE OF CIVIL TRACK ASSIGNMENT AND SCHEDULING ORDER

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 BOSLEY AVENUE
P.O. BOX 6754
TOWSON, MARYLAND 21285-6754

Baltimore County Board Of Appeals
105 W Chesapeake Ave
Suite 203
Towson MD 21204

Assignment Date: 11/04/15

Case Title: In the Matter of Karl Kiessling, et al
Case No: 03-C-15-009114 AA

The above case has been assigned to the EXPEDITED APPEAL TRACK. Should you have any questions concerning your track assignment, please contact: Joy M Keller at (410) 887-3233.
You must notify this Coordinator within 15 days of the receipt of this Order as to any conflicts with the following dates:

SCHEDULING ORDER

1. Motions to Dismiss under MD. Rule 2-322(b) are due by..... 11/19/15
2. All Motions (excluding Motions in Limine) are due by..... 12/24/15
3. TRIAL DATE is..... 02/02/16
   Civil Non-Jury Trial; Start Time: 09:30AM; To Be Assigned: 1/2 HOUR ADMINISTRATIVE APPEAL

Honorable Kathleen Gallogly Cox
Judge

Postponement Policy: No postponements of dates under this order will be approved except for undue hardship or emergency situations. All requests for postponement must be submitted in writing with a copy to all counsel/parties involved. All requests for postponement must be approved by the Judge.

Settlement Conference (Room 507): All counsel and their clients MUST attend the settlement conference in person. All insurance representatives MUST attend this conference in person as well. Failure to attend may result in sanctions by the Court. Settlement hearing dates may be continued by Settlement Judges as long as trial dates are not affected. (Call [410] 887-2920 for more information.)

Special Assistance Needs: If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Civil Assignment Office at (410)-887-2660 or use the Court's TDD line, (410) 887-3018, or the Voice/TDD M.D. Relay Service, (800) 735-2258.

Voluntary Dismissal: Per Md. Rule 2-506, after an answer or motion for summary judgment is filed, a plaintiff may dismiss an action without leave of court by filing a stipulation of dismissal signed by all parties who have appeared in the action. The stipulation shall be filed with the Clerk's Office. Also, unless otherwise provided by stipulation or order of court, the dismissing party is responsible for all costs of the action.

Court Costs: All court costs MUST be paid on the date of the settlement conference or trial.

Camera Phones Prohibited: Pursuant to Md. Rule 16-109 b.3., cameras and recording equipment are strictly prohibited in courtr

and adjacent hallways. This means that camera cell phones should not be brought with you on the day of your hearing to the Courthouse.

cc: Roy E Jones
cc: Robert Long
cc: Lawrence Schmidt Esq
cc: Edward C Covahey Jr
cc: Bruce Edward Covahey Esq
Issue Date 11/04/15

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

October 23, 2015

Civil Clerk
Circuit Court for Baltimore County
401 Bosley Avenue
Towson, Maryland 21204

RE: In the matter of: Roy E. Jones (Deceased) and Jean Jones – Legal Owner
Robert Long – Contract Purchaser
Civil Action No.: 03-C-15-009114
Board of Appeals Case No.: 14-172-A

Dear Clerk:

Enclosed for filing please find the Proceedings before the Administrative Law Judge and the Board of Appeals for Baltimore County. Additionally, please allow this letter to reflect the filing of one accordion folder containing the entire Board of Appeals case file, exhibits, and transcript pursuant to Maryland Rule 7-206.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Tammy A. McDiarmid
Legal Secretary

tam
Enclosures

c: Lawrence E. Schmidt, Esquire
Jean Jones
Robert Long
Bernadette Moskunas/Site Rite Surveying, Inc.
Andrea Van Arsdale, Director/Dept. of Planning
Lawrence Stahl, Managing Administrative Law Judge
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law
Edward C. Covahey, Jr., Esquire
Bruce Edward Covahey, Esquire
Kevin and Anne Kauders
Karl Kiesling
Office of People's Counsel
Arnold Jablon, Director/PAI

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	*	
PETITION OF: KARL KIESLING, KEVIN KAUDERS AND ANNE KAUDERS	*	
FOR JUDICIAL REVIEW OF THE OPINION OF THE BOARD OF APPEALS OF BALTIMORE COUNTY JEFFERSON BUILDING – ROOM 203 105 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204	*	CIVIL ACTION NO. : 03-C-15-009114
IN THE MATTER OF: ROY E. JONES (DECEASED) AND JEAN JONES – LEGAL OWNER ROBERT LONG – CONTRACT PURCHASER FOR PROPERTY LOCATED AT 3505 BEACH ROAD	*	
15TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT	*	
BOARD OF APPEALS CASE NO.: 14-172-A	*	

* * * * * * * * * * * *

PROCEEDINGS BEFORE THE ADMINISTRATIVE LAW JUDGE
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the Board of Appeals of Baltimore County and, in answer to the Petition for Judicial Review directed against it in this case, herewith transmits the record of proceedings had in the above-entitled matter, consisting of the original papers on file in the Department of Permits, Approvals and Inspections and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND
DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
OF BALTIMORE COUNTY

February 21, 2014	Petition for Variance pursuant to Section 1A04.3 and 301.1 of the BCZR 1) to allow an area of 9,750 sq. ft. in lieu of the required 1-1/2 acres; and 2) to allow an open projection deck with a setback of 13 ft. in lieu of the required 37-1/2 ft.; and 3) to allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively; and to allow a building coverage of 20% in lieu of the maximum required 15%; and to allow any variances deemed necessary by the Administrative Law Judge filed by Petitioners Roy E. Jones (Deceased) and Jean Jones, Legal Owner, and Robert Long, Contract Purchaser.
March 14, 2014	Entry of Appearance filed by People's Counsel for Baltimore County.
March 26, 2014	Certificate of Posting
March 27, 2014	Certificate of Publication in newspaper
April 9, 2014	ZAC Comments.
April 15, 2014	Hearing held before the Administrative Law Judge
April 23, 2014	Opinion and Order issued by the Administrative Law Judge wherein the Petition for Variance was GRANTED.
April 30, 2014	E-mail from Robert Long, Contract Purchaser to John Beverungen, Administrative Law Judge advising revised site plan will be submitted.
May 7, 2014	Revised Plan to Accompany Petition for Variance filed.
May 8, 2014	E-mail from John Beverungen, Administrative Law Judge to Bernadette Moskunas of Site Rite Surveying, Inc. confirming receipt of amended site plan.
May 19, 2014	Notice of Appeal filed by Kevin Kauders, Anne Kauders and Karl Kiesling, Protestants/Appellants.
May 27, 2014	Appeal received by Board of Appeals.
June 24, 2014	Notice of Assignment issued by the Board, hearing scheduled for August 19, 2014.
July 9, 2014	Notice of Postponement and Reassignment issued by the Board, hearing scheduled for August 26, 2014.

August 26, 2014	Board convened for a hearing, Day 1.
September 30, 2014	Letter to Board from Robert Long requesting hearing be scheduled for the week of November 15, 2014.
October 3, 2014	Notice of Reassignment issued by the Board, hearing scheduled for November 19, 2014.
November 19, 2014	Entry of Appearance filed by Edward C. Covahey, Jr., Esquire and Bruce Edward Covahey, Esquire on behalf of Karl Kiesling, Kevin Kauders and Anne Kauders, Protestants.
November 19, 2014	Board convened for a hearing, Day 2.
November 20, 2014	Notice of Reassignment issued by Board, hearing scheduled for January 5, 2015.
December 10, 2014	Letter from Lawrence E. Schmidt, Esquire notifying Board of his representation of Robert Long, Contract Purchaser/Petitioner.
January 5, 2015	Board convened for a hearing, Day 3.

Exhibits submitted at hearing before the Board of Appeals:

Petitioner's Exhibit No.

1 – Drawing-Plan to Accompany Petition for Variance by Site Rite Surveying
2 – Neighborhood Plat "1926"
3 – Boundary Survey "1990" with dwelling
4 – Jones Deed – 3505 Beach Road, October 2, 2012
5 – Title Examination "1980", Deed dated May 2, 1980
6 – Property conveyance "1973", Deed dated October 10, 1973
7 – Property conveyance "1934", Deed dated June 4, 1934
8 – Variance relief for Kevin Kauders, 3507 Beach Road
9A – SDAT Print-out for 3505 Beach Road
9B – SDAT Print-out for 3507 Beach Road
9C – SDAT Print-out for 3503 Beach Road
10A-P – Photographs
11 – County comments
12 A-B – House elevations
13 – Photo of cars owned by Kiesling

Protestants' Exhibit No.
1-8 Photographs taken by Karl Kiesling, October 2014.

January 30, 2015	Letter from Lawrence E. Schmidt, Esquire requesting an extension of time to file Petitioner's Closing Brief, and proposed revised due dates.
February 6, 2015	Memorandum in Lieu of Closing Argument filed by Lawrence E. Schmidt, Esquire, on behalf of Petitioners, Jean Jones, Legal Owner, and Robert Long, Contract Purchaser.
February 13, 2015	Brief and Memorandum of Protestants in Opposition to Petition for Variance filed by Edward C. Covahey, Jr., Esquire and Bruce Edward Covahey, Esquire on behalf of Karl Kiesling, Kevin Kauders and Anne Kauders, Protestants.
February 20, 2015	Reply Memorandum in Lieu of Closing Argument filed by Lawrence E. Schmidt, Esquire, on behalf of Petitioners, Jean Jones, Legal Owner, and Robert Long, Contract Purchaser.
April 6, 2015	Board convened for Public Deliberation.
July 23, 2015	Final Opinion and Order issued by the Board in which the Petitioner's requested relief from Sections 1A04.3 and 301.1 of the Baltimore County Zoning Regulations was GRANTED pursuant to the standards used to review this request, or in the alternative through Petition for Variance.
August 25, 2015	Amended Petition for Judicial Review filed in the Circuit Court for Baltimore County by Edward C. Covahey, Jr., Esquire, and Bruce Edward Covahey, Esquire on behalf of Karl Kiesling, Kevin Kauders and Anne Kauders, Protestants/Appellants.
August 28, 2015	Copy of Amended Petition for Judicial Review received from the Circuit Court for Baltimore County by the Board of Appeals.
September 3, 2015	Certificate of Compliance sent to all parties and interested persons.
September 8, 2015	Response to Petition for Judicial Review filed by Lawrence E. Schmidt, Esquire on behalf of Petitioners', Jean Jones (as surviving spouse), Legal Owner, and Robert Long, Contract Purchaser.
October 23, 2015	Transcript of testimony filed.
October 23, 2015	Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Tammy A. McDiarmid, Legal Secretary
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3180

c: Lawrence E. Schmidt, Esquire
Edward C. Covahey, Jr., Esquire
Bruce Edward Covahey, Esquire
Jean Jones
Robert Long
Kevin and Anne Kauders
Karl Kiesling
Bernadette Moskunas/Site Rite Surveying, Inc.
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

PETITION OF: KARL KIESLING KEVIN KAUDERS AND ANNE KAUDERS	*	IN THE
FOR JUDICIAL REVIEW OF THE OPINION OF THE BOARD OF APPEALS OF BALTIMORE COUNTY	*	CIRCUIT COURT FOR BALTIMORE COUNTY
IN THE MATTER OF: ROY E. JONES (DECEASED) AND JEAN JONES – LEGAL OWNER ROBERT LONG – CONTRACT PURCHASER FOR THE PROPERTY LOCATED AT 3505 BEACH ROAD	*	**Case No. 03-C-15-009114**
15TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT	*	
BOARD OF APPEALS CASE NO. 14-172-A	*	

* * * * * * * * * * * * *

RESPONSE TO PETITION FOR JUDICIAL REVIEW

Jean Jones (as surviving spouse), Legal Owner and Robert Long, Contract Purchaser, by and through their attorneys, Lawrence E. Schmidt and Smith, Gildea & Schmidt, LLC, pursuant to Maryland Rule 7-204, submits this response to Petition for Judicial Review filed by Karl Kiesling, Kevin Kauders and Anne Kauders, and hereby gives notice of their intent to participate in the above-captioned petition for judicial review. The undersigned participated in the proceeding before the County Board of Appeals.

Respectfully Submitted,

LAWRENCE E. SCHMIDT, ESQUIRE
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
lschmidt@sgs-law.com

Certificate of Service

I hereby certify that on this 8th day of September, 2015, a copy of the foregoing Response to Petition for Judicial Review was mailed first class, pre-paid postage to:

Edward C. Covahey, Jr., Esquire
Bruce Edward Covahey, Esquire
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, MD 21204

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, MD 21204

County Board of Appeals
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204

LAWRENCE E. SCHMIDT

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF:
KARL KIESLING, *
KEVIN KAUDERS AND ANNE KAUDERS

*

FOR JUDICIAL REVIEW OF THE OPINION OF CIVIL ACTION
THE BOARD OF APPEALS * NO. : 03-C-15-009114
OF BALTIMORE COUNTY
JEFFERSON BUILDING – ROOM 203 *
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204 *

IN THE MATTER OF: *
ROY E. JONES (DECEASED) AND
JEAN JONES – LEGAL OWNER *
ROBERT LONG – CONTRACT PURCHASER
FOR PROPERTY LOCATED AT *
3505 BEACH ROAD

*

15TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT *

BOARD OF APPEALS CASE NO.: 14-172-A *

* * * * * * * * * * * *

RECEIVED AND FILED
2015 SEP -3 A 11: 31
CLERK OF CIRCUIT COURT
BALTIMORE COUNTY

CERTIFICATE OF COMPLIANCE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

Edward C. Covahey, Jr., Esquire
Bruce Edward Covahey, Esquire
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, MD 21204

Jean Jones
503 Elm Street
Conway, SC 29526

Robert Long
3827 Annadale Road
Baltimore, MD 21222

Karl Kiesling
3503 Beach Road
Middle River, MD 21220

Kevin and Anne Kauders
3507 Beach Road
Middle River, MD 21220

Bernadette Moskunas
Site Rite Surveying, Inc.
200 E. Joppa Road, Room 101
Towson, MD 21286

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, MD 21204

Lawrence M. Stahl
Managing Administrative Law Judge
The Jefferson Building, Suite 103
105 W. Chesapeake Avenue
Towson, MD 21204

Arnold Jablon, Director
Permits, Approvals and Inspections
County Office Building
111 W. Chesapeake Avenue, Suite 105
Towson, MD 21204

Andrea Van Arsdale, Director
Department of Planning
The Jefferson Building, Suite 100
105 W. Chesapeake Avenue
Towson, MD 21204

Nancy C. West, Assistant County Attorney
Baltimore County Office of Law
The Historic Courthouse
400 Washington Avenue
Towson, MD 21204

Michael Field, County Attorney
Baltimore County Office of Law
The Historic Courthouse
400 Washington Avenue
Towson, MD 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

I HEREBY CERTIFY that on this 3rd day of September, 2015 a copy of the foregoing Certificate of Compliance has been mailed to the individuals listed above.

Tammy A. McDiarmid

Tammy A. McDiarmid, Legal Secretary
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3180

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

September 3, 2015

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

Edward C. Covahey, Jr., Esquire
Bruce Edward Covahey, Esquire
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204

RE: Petition for Judicial Review
Circuit Court Case No.: 03-C-15-009114
Petition of: Karl Kiesling, Kevin Kauders and Anne Kauders
In the Matter of: Roy E. Jones (Deceased) and Jean Jones – Legal Owner
Robert Long – Contract Purchaser
Board of Appeals Case No.: 14-172-A

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules that a Petition for Judicial Review was filed on August 25, 2015 by Edward C. Covahey, Jr., Esquire and Bruce Edward Covahey, Esquire on behalf of their clients, Karl Kiesling, Kevin Kauders and Anne Kauders, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response with the Circuit Court for Baltimore County within 30 days after the date of this letter, pursuant to the Maryland Rules.

In accordance with the Maryland Rules, the Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review within 60 days. Edward C. Covahey, Jr., Esquire and Bruce Edward Covahey, Esquire on behalf of their clients, having taken the appeal, are responsible for the cost of the transcript of the record and the transcript must be paid for in time to transmit the same to the Circuit Court within the 60 day timeframe as stated in the Maryland Rules.

Courtsmart was the official record of the hearings before the Board. The disk(s) will be copied by this office and provided to you for transcription. The transcriptionist must meet the requirements set forth in Maryland Rule 16-406d(B) which states: "*a stenographer, court reporter, or transcription service designated by the court for the purpose of preparing an official transcript from the recording.*" The Board of Appeals can assist in obtaining a qualified transcriptionist upon request.

Please be advised that the ORIGINAL transcripts must be provided to the Board of Appeals no later than OCTOBER 20, 2015 so that they may be transmitted to the Circuit Court with the record of proceedings, pursuant to the Maryland Rules.

A copy of the Certificate of Compliance has been enclosed for your convenience.

Very truly yours,

Tammy A. McDiarmid
Legal Secretary

Duplicate Original
Enclosure

c: Jean Jones
Robert Long
Kevin and Ann Kauders
Karl Kiesling
Bernadette Moskunas/Site Rite Surveying, Inc.
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

September 3, 2015

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

Edward C. Covahey, Jr., Esquire
Bruce Edward Covahey, Esquire
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204

RE: Petition for Judicial Review
Circuit Court Case No.: 03-C-15-009114
Petition of: Karl Kiesling, Kevin Kauders and Anne Kauders
In the Matter of: Roy E. Jones (Deceased) and Jean Jones – Legal Owner
Robert Long – Contract Purchaser
Board of Appeals Case No.: 14-172-A

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules that a Petition for Judicial Review was filed on August 25, 2015 by Edward C. Covahey, Jr., Esquire and Bruce Edward Covahey, Esquire on behalf of their clients, Karl Kiesling, Kevin Kauders and Anne Kauders, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response with the Circuit Court for Baltimore County within 30 days after the date of this letter, pursuant to the Maryland Rules.

In accordance with the Maryland Rules, the Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review within 60 days. Edward C. Covahey, Jr., Esquire and Bruce Edward Covahey, Esquire on behalf of their clients, having taken the appeal, are responsible for the cost of the transcript of the record and the transcript must be paid for in time to transmit the same to the Circuit Court within the 60 day timeframe as stated in the Maryland Rules.

Courtsmart was the official record of the hearings before the Board. The disk(s) will be copied by this office and provided to you for transcription. The transcriptionist must meet the requirements set forth in Maryland Rule 16-406d(B) which states: "*a stenographer, court reporter, or transcription service designated by the court for the purpose of preparing an official transcript from the recording.*" The Board of Appeals can assist in obtaining a qualified transcriptionist upon request.

Please be advised that the ORIGINAL transcripts must be provided to the Board of Appeals no later than OCTOBER 20, 2015 so that they may be transmitted to the Circuit Court with the record of proceedings, pursuant to the Maryland Rules.

A copy of the Certificate of Compliance has been enclosed for your convenience.

Very truly yours,

Tammy A. McDiarmid
Legal Secretary

Duplicate Original
Enclosure

c: Jean Jones
Robert Long
Kevin and Ann Kauders
Karl Kiesling
Bernadette Moskunas/Site Rite Surveying, Inc.
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY *

PETITION OF: *
KARL KIESLING, *
KEVIN KAUDERS AND ANNE KAUDERS *

FOR JUDICIAL REVIEW OF THE OPINION OF CIVIL ACTION
THE BOARD OF APPEALS * NO. : 03-C-15-009114
OF BALTIMORE COUNTY *
JEFFERSON BUILDING – ROOM 203 *
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204 *

IN THE MATTER OF: *
ROY E. JONES (DECEASED) AND *
JEAN JONES – LEGAL OWNER *
ROBERT LONG – CONTRACT PURCHASER
FOR PROPERTY LOCATED AT *
3505 BEACH ROAD
*
15TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT *

BOARD OF APPEALS CASE NO.: 14-172-A *

* * * * * * * * * * * *

CERTIFICATE OF COMPLIANCE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

Edward C. Covahey, Jr., Esquire
Bruce Edward Covahey, Esquire
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, MD 21204

Jean Jones
503 Elm Street
Conway, SC 29526

Robert Long
3827 Annadale Road
Baltimore, MD 21222

Karl Kiesling
3503 Beach Road
Middle River, MD 21220

Kevin and Anne Kauders
3507 Beach Road
Middle River, MD 21220

Bernadette Moskunas
Site Rite Surveying, Inc.
200 E. Joppa Road, Room 101
Towson, MD 21286

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, MD 21204

Lawrence M. Stahl
Managing Administrative Law Judge
The Jefferson Building, Suite 103
105 W. Chesapeake Avenue
Towson, MD 21204

Arnold Jablon, Director
Permits, Approvals and Inspections
County Office Building
111 W. Chesapeake Avenue, Suite 105
Towson, MD 21204

Andrea Van Arsdale, Director
Department of Planning
The Jefferson Building, Suite 100
105 W. Chesapeake Avenue
Towson, MD 21204

Nancy C. West, Assistant County Attorney
Baltimore County Office of Law
The Historic Courthouse
400 Washington Avenue
Towson, MD 21204

Michael Field, County Attorney
Baltimore County Office of Law
The Historic Courthouse
400 Washington Avenue
Towson, MD 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

I HEREBY CERTIFY that on this 3rd day of September, 2015 a copy of the foregoing Certificate of Compliance has been mailed to the individuals listed above.

Tammy A. McDiarmid

Tammy A. McDiarmid, Legal Secretary
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3180

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF: *

Karl Kiessling *
3503 Beach Road
Middle River, MD 21220 *

and *

Kevin and Ann Kauders *
3507 Beach Road
Middle River, MD 21220 *

FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY *
Suite 203, Jefferson Building *
105 W. Chesapeake Avenue
Towson, MD 21204 *

Civil Action No. C-15-9114

IN THE MATTER OF: *

Roy E. Jones (Deceased) and *
Jean Jones, Legal Owner
Robert Long, Contract Purchaser *
3505 Beach Road
15th Election District, 6th Councilmanic Dist. *
Case No. 14-172-A
*

* * * * * * * * * * * *

AMENDED
PETITION FOR JUDICIAL REVIEW

Karl Kiessling, Kevin Kauders and Ann Kauders, Petitioners, by Edward C. Covahey, Jr., Bruce Edward Covahey and Covahey & Boozer, P.A., pursuant to Rule 7-201, hereby request judicial review by this Honorable Court of the July 23, 2015 Opinion of the County Board of Appeals for Baltimore County. The Petitioners were parties to the said proceedings.

EDWARD C. COVAHEY, JR.

BRUCE EDWARD COVAHEY
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204
410-828-9441
Attorneys for Petitioners, Karl Kiessling, Kevin and Ann Kauders

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of August, 2015, a copy of the foregoing Amended Petition for Judicial Review was mailed, first class, postage prepaid, to:

Lawrence E. Schmidt, Esquire
Christopher W. Corey, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

BRUCE EDWARD COVAHEY

jk150814

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
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TOWSON, MARYLAND, 21204
410-887-3180
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July 23, 2015

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

Edward C. Covahey, Jr., Esquire
Bruce Edward Covahey, Esquire
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204

RE: *In the Matter of: Roy E. Jones (Deceased) & Jean Jones – Legal Owner*
Robert Long – Contract Purchaser
Case No.: 14-172-A

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Sunny Cannington Hann

Krysundra "Sunny" Cannington
Administrator

KLC/tam
Enclosure
Duplicate Original Cover Letter

c: Jean Jones
Robert Long
Kevin and Anne Kauuders
Karl Kiesling
Bernadette Moskunas/Site Rite Surveying, Inc.
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy C. West, Assistant County Attorney
Michael E. Field, County Attorney, Office of Law

PETITION FOR VARIANCE (3505 Beach Road)	*	BEFORE THE
	*	BOARD OF OFAPPEALS
15th Election District 6th Coucilmanic District	*	OF
Roy E. (Deceased) & Jean Jones, Owner Robert Long –Contract Purchaser Petitioners	*	BALTIMORE COUNTY
	*	Case No. 14-172-A
	*	

* * * * * * * * *

OPINION

This matter comes before the Board of Appeals for Baltimore County (the "Board") as a Petition for Variance filed by Roy E. Jones (Deceased) and Jean Jones, Legal Owners and Robert Long, Contract Purchaser ("Petitioners"). The Petitioners are requesting variance relief from Sections 1A04.3 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), as follows: (1) to allow an area of 9,750 sq. ft in lieu of the required 1.5 acres; (2) to allow an open projection deck with a setback of 13 ft. in lieu of the required 37.5 ft.; (3) to allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft from any lot line, respectively; (4) to allow a building coverage of 20% in lieu of the maximum required 15. A hearing was held before the Board on January 5, 2015 and this matter was publicly deliberated on April 6, 2015. Petitioners were represented by Lawrence E. Schmidt, Esquire, of Smith, Gildea, and Schmidt, LLC. Protestants, Kevin and Anne Kauders, and Karl Kiesling, neighbors to the property in question, were represented by Bruce E. Covahey, Esquire, of Covahey and Boozer, P.A.

Zoning Advisory Committee (ZAC) comments were received into evidence by the Petitioner from the Department of Planning (DOP) dated April 7, 2014, and the Bureau of

Development Plans Review (DPR) dated March 20, 2014 and the Department of Environmental Protection and Sustainability (DEPS) dated April 11, 2014. DPR noted Petitioners were required to satisfy the County's flood protection laws, while DEPS indicated Petitioners must satisfy the Critical Area regulations. The DOP did not oppose the Petition.

Testimony from the Petitioners revealed that the subject property is approximately 9,750 square feet and is zoned RC 5. Petitioner (Mr. Long) is planning to purchase the property, and requires variance relief to construct a replacement dwelling on the site. The site was improved with a single family dwelling but the structure had to be razed after suffering extensive storm damage. The B.C.Z.R. permits nonconforming structures which are destroyed by casualty to be reconstructed and the regulations also permit the Zoning Commissioner to authorize an enlargement ("extension") of the original structure by 25% of the ground floor area. (B.C.Z.R. sections 104.2 and 104.3.)

Bernadette Moskunas testified on behalf of the Petitioners and opined that the both the size and shape of the property are unique. She noted the irregular depth, the acreage, and configuration of the property are unlike other properties in the area. Ms. Moskunas also testified that the Petitioners would suffer practical difficulty if their request to construct a replacement dwelling is denied, because due to the property's size, shape, and configuration there is no location on the property where a residence could be reconstructed in conformance with the BCZR. Ms. Moskunas further testified that considering the surrounding neighborhood the site constraints at issue, the construction of the proposed dwelling would be consistent with the RC 5 zoning regulations, compatible with the neighborhood and would not cause injury to the public health, safety, or general welfare.

As presented into evidence by the Protestants, the Protestants reside on lots abutting the property on either side, respectively. Their properties are each improved by single-family dwellings. Neither dwelling complies with the R.C.5 regulations, however each dwelling represents the continuance of a pre-existing non-conforming use. (BCZR § 101.01.) The residence on the Kiesling property, located at 3503 Beach Road, was constructed in 2005, after the previous dwelling was damaged by Hurricane Isabel in 2003 and razed in 2004. The current dwelling sits within the footprint of the prior dwelling, however, is taller than the prior residence. The Kauders residence located at 3507 Beach Road, was constructed in or about 1947, thus predating the adoption of the Baltimore County's comprehensive zoning. The carport attached to the house has been converted into an enclosed garage.

The Protestants testified that the proposed dwelling would be inconsistent with the rest of the neighborhood because it would be built on substantially larger footprint than the prior dwelling. Protestant Kevin Kauders testified that in his opinion the proposed development would result in making the community resemble a "townhouse development", which he finds not to be appropriate in a community abutting a tributary of the Chesapeake Bay. Protestants further testified that the property is prone to significant flooding. Protestants further argue that the construction of a new home on the property would interfere with the views currently enjoyed. In particular, Protestant, Kevin Kauders, testified that his view would be significantly reduced because of the proposed new dwelling. Finally, the Protestants also noted that constructing a dwelling on the property will increase existing parking problems on Beach Road. Protestants argue that the street is currently inadequate to support existing traffic needs. Adding new residents to the neighborhood will only increase the burden on Beach Road and the surrounding roads. No expert testimony was offered as to traffic volume.

ARGUMENTS

A. Applicability of Lot Requirements for the R.C. 5 Zone

Although the Petitioners originally requested variance relief, they now also argue that such relief is not required from the Minimum Lot Area Requirement, since no "lot" is actually being "created." The regulation at issue is BCZR § 1A04.3.B.1a, which states, "[a] lot having an area of less than 1 ½ acres may not be created in an R.C.5 Zone." The word at issue is the meaning of the term "created." Petitioners argue that this provision is not applicable in the present case as no lot is being created by the Petitioners requested relief. Evidence presented to the Board reflects that the lot at issue was created many years ago, when the Seneca Park Beach Plat, dated May 28, 1926, was recorded in the Land Records. (See Petitioners' Exhibit 2.)

The Board concurs with the Petitioner's logic that lots that were in existence prior to when the 1.5 acre minimum was adopted must be grandfathered. If that were not the case, there would be hundreds of RC 5 lots in Baltimore County (including the Protestants) that are illegal because they were created prior to the adoption of BCZR § 1A04.3.B.1.a. The lot at issue was created in 1926 and predates the creation of the first zoning regulations that were adopted in Baltimore County in 1945.

Additionally, Petitioners argue that pursuant to BCZR § 1A.04.3.B.4, the property at issue qualifies for an exception from the setback and lot coverage regulations and variance relief is not required. BCZR § 1A.04.3.B.4 provides for an exception for certain properties in the RC 5 zone from these setback standards and lot coverage requirements. It states:

> Exceptions for certain lots. Any existing lot or parcel of land with boundaries duly recorded among the land records of Baltimore County with the approval of the Baltimore County Department of Planning on or before the effective date of these zoning regulations and not part of an approved subdivision that cannot meet the minimum standards as provided within the zone may be approved

> for residential development in accordance with the standards prescribed in force at the time of the lot recordation.

The provisions of the BCZR for which the Petitioners seek relief primarily relate to setbacks for the proposed dwelling. As noted above, they are: (1) to allow an open projection deck (in the rear yard/street) with a setback of 13 ft. in lieu of the required 37.5 ft.; (2) to allow a replacement dwelling with a rear yard setback of 33 ft. in lieu of the required 75 feet to the centerline of the road; (3) a variance to allow 9 feet setbacks on both sides in lieu of the required 50 ft. from any lot line; and (4) to allow a building coverage of 20% in lieu of the maximum required 15%. Petitioners contend that the following elements must be established under BCZR § 1A.04.3.B.4 in order for lot to qualify for this exception: (1) An existing lot must be recorded in the Baltimore County Land Records prior to the effective date of the governing regulations; (2) the lot must not be a part of an approved subdivision; (3) the lot must not able to be developed in conformance with the minimum standards provided within the zone; and (4) if elements (1)-(3) are satisfied, then residential development may be permitted on the lot in accordance with the standards prescribed in force at the time of the lot recordation.

In the case at bar, the existing lot was recorded in the Baltimore County Land Records on May 28, 1926, well before the effective date of the RC 5 zoning classification, which was enacted in 1975. (See County Council Bill 98-1975.) Thus, element (1) has been satisfied. Similarly, element (2) has also been met because in 1926 Baltimore County had yet to enact a subdivision process. In fact, zoning regulations were not introduced in Baltimore County until 1945; therefore, the property at issue was not part of an approved land recorded subdivision. The Seneca Park community, as shown on the plat, was never approved by Baltimore County as no Department of Planning existed when the plat was recorded. Addressing element (3), considering the 50 ft. width of the property, the limited and uneven depth of the property, the property's proximity to th

shoreline and location within the Chesapeake Bay Critical Area, and the regulations that govern thereto, it is clear that the property at issue would not be developable in conformance with the RC 5 standards.

The Protestants argue that BCZR § 101.1 provides that a "subdivision" is "[t]he subdivision of any tract or Parcel of land… into two or more lots, plots or other subdivision of land for the purpose, whether immediate or in the future, of building development for rental or sale…" BCZR § 101.1, consequently, the Protestants argue that the preparation and recording of the Plat of Seneca Park Beach represents precisely the act described in BCZR §101.1. Specifically, the original parcel of land was divided into multiple lots for building development. The Board does not find this argument to be persuasive in that the Plat of Seneca Park Beach was recorded well before the adoption of any Baltimore County zoning regulations or subdivision requirements and thus cannot be considered part of a "subdivision" contemplated by current zoning regulations. Consequently, the Board finds that the Petitioner's request has met the first three criteria of BCZR § 1A.04.3.B.4.

BCZR § 1A.04.3.B.4 further states that if the first three criteria are established then the property "may be approved for residential development in accordance with the standards prescribed in force at the time of the lot recordation." In this case, there were no regulations in placed in 1926 and thus no standards prescribed in force at the time of the lot recordation, however, as noted by the Petitioners, the RC 5 regulations set forth certain "performance standards" as set out in BCZR § 1A04.4. These performance standards contained in a separate subtitle within the RC 5 regulations and thus are not subject to waiver via the exception in BCZR § 1A.04.3.B.4. In this circumstance, the performance standards are in place to monitor proposed development and ensure that it is appropriate in the absence of other regulation. Accordingly, the Petitioners cannot redevelop the property in a manner that does not satisfy the performance standards in BCZR

1A04.4. As previously noted, the DOP (within their ZAC comment) supported Petitioners' requested relief stating, "the proposal was consistent with the RC 5 zone performance standards." In sum, an exception to the setback and lot coverage requirements is proper under BCZR § 1A.04.3.B.4 without requesting variance relief.

B. Should the proposed dwelling be permitted through Special Hearing Relief Pursuant to BCZR § 1A04.3.B.1b.1?

BCZR § 1A04.3.B.1b.1 states:

> The owner of a single lot of record that is not a subdivision and that is in existence prior to September 2, 2003, but does not meet the minimum acreage requirement, or does not meet the setback requirement of Paragraph 2, may apply for a special hearing under Article 5 to alter the minimum lot size requirement. However, the provisions of Sections 1A04.4 may not be varied.

This Board finds that BCZR §1A04.3.B.1b.1 is applicable to this matter, and now must determine the necessary standard used in evaluating Special Hearing requests. Special Exceptions are adjudged pursuant to § 502.1 (detrimental to the health, safety, and welfare of the locale). Special Hearings have been likened to a declaratory judgment. (See *Antwerpen v. Baltimore County*, 163 Md. App. 194, 209 (2005).) Within the regulation that authorizes the filing of a Special Hearing (BCZR § 500.7), there is no standard identified which delineates the circumstances when Special Hearing relief should be granted. Historically, the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing would be compatible with the community and generally consistent with the spirit and intent of the regulations. In applying the § 502.1 standard to the case at bar, the Board finds, as testified by Ms. Moskunas, that the requested relief does not adversely impact the health, safety and welfare of the community, and it is consistent with the intent of the RC 5 regulations. Protestants have raised the objection that the proposed development will cause interference with their view of the water. This Board finds that

it is well established that without a view easement there is no right to a water view across another's property, consequently, while not being an ideal situation for adjoining neighbors, the interference with water view cannot be seen as a negative impact in the neighborhood for the § 502.1 analysis. Additionally, no expert testimony was offered by the Protestants regarding their claims of possible traffic problems or environmental issues. As previously noted, this project was reviewed by relevant County agencies. County review of this request indicates that the proposal is in compliance with the goals of the governing regulations. As noted, DEPS evaluated the subject Petition for compliance with the goals of Critical Area Law, stating the "the relief requested will be consistent with established land-use policies for development in the Critical Area." DPR stated that Petitioner's requested building is proposed to be built to the elevation required. The DOP supported Petitioner's requested relief, finding that "the proposal was consistent with RC 5 zone performance standards." If the proposal was deemed noncompliant with any Regulations to recommend denial of the instant project, no such denial was recommended in this case.

C. Effect of new construction outside of the two year time period permitted to construct a replacement dwelling under BCZR § 305.1 and BCZR § 104.2.

Protestants concede that the dwelling previously located on the property at issue existed as a permitted non-conforming use. Protestants note that BCZR § 101.1 BCZR § 104.2 provides that any structure that represents a non-conforming use is "damaged to any extent or destroyed by fire or other casualty may be restored within two years after such destruction or damage but may not be enlarged." That provision afforded the Petitioners a period of two years after the demolition of the original dwelling within which to build a new dwelling on the property.

As noted by the Petitioners, Protestant, Mr. Kiesling testified that he purchased the property located at 3503 Beach Road in 2001. Mr. Kiesling further testified that thereafter, Hurricane Isabe struck in 2003, rendering the home that he purchased unlivable. After Hurricane Isabel, M

Kiesling then constructed a replacement dwelling in 2006, 5 feet away from the property line at 3504 Beach Road, *without requesting a variance or any other zoning relief.* This construction can be construed as outside of the two year time period in which Mr. Kiesling would have been permitted to construct a replacement dwelling under BCZR § 305.1 and BCZR §104.2. Therefore, under the BCZR, Mr. Keisling may have been required to request a variance or other zoning relief in order to rebuild his home in 2006 and did not do so. While the mere fact that Mr. Kiesling did not request zoning relief for the building of his replacement home does not entitled the Petitioner to do so as well, it does illustrate the fact that the County has been flexible in the application of regulations in the case of those affected by the disastrous effects of Hurricane Isabel. Consequently, the Board does not find that failure to rebuild in the two-year window contemplated by BCZR § 305.1 and BCZR § 104.2 precludes the proposed development in the case at bar.

D. Variance Analysis

Although the Board has determined that the Petitioners do not require variance relief as a result of the application of BCZR § 1A04.3.B.1a and BCZR § 1A.04.3.B.4, the Board will comment briefly on the variance issue.

Protestants contend that the parcel at issue is essentially identical to all other parcels in the neighborhood and is not unique for zoning purposes pursuant to *Cromwell V. Ward*, 102 Md. App. 691 (1995.) Additionally, Protestants argue that no practical difficulty exists because if the proposed variances are denied that the status quo would be maintained and the Petitioner's would be limited to rebuilding within the confines of the previous structure. At the Board's hearing, Ms. Moskunas testified that both the size and shape of the property is unique. More particularly, she emphasized the impact of the shoreline on the depth of the property, which unlike other lots in the neighborhood, creates a western property boundary of +/- 180 feet and an eastern property

boundary of +/- 170 feet. Similarly, Ms. Moskunas testified that at 9,750 square feet in area, the size of the subject property is also different from other properties in the vicinity. Testimony was offered that no other lot in the area shares these dimensions. Additionally, the property was also impacted particularly severely by Hurricane Isabel, causing total destruction of the previously existing dwelling, which has caused the property to be one of the few vacant lots in the neighborhood. Considering these facts in conjunction with application of the Maryland Chesapeake Bay Critical Area Law, renders the property at issue unique. More particularly, the Maryland Chesapeake Bay Critical Area Laws and Baltimore County's Buffer Management Regulations require structures to be setback from the water and closer to the road; conversely, the RC 5 zoning regulations require structures to be setback at least 5 feet from the center line of any road. Therefore, because the zoning regulations and environmental regulations at issue are intended to serve competing goals, combined with the unique shape and size of the property, the lack of feasible building area is exacerbated by the combination of these factors. Moreover, in consideration of the unique circumstances, the DOP and Ms. Moskunas both concluded the proposed dwelling is consistent with the neighborhood as well as the RC 5 zoning regulations. Ms. Moskunas also testified that the Petitioners in this case would suffer practical difficulty if their request to construct a replacement dwelling is denied, because there is no location on the property where a residence could be constructed in conformance with the BCZR. Further, Ms. Moskunas testified that considering the surrounding neighborhood and site constraints at issue, the construction of the proposed dwelling would be consistent with the RC 5 zoning regulations and would not cause injury to the public health, safety, or general welfare.

Although the Board does not find that variance relief is required in this matter, in reviewing the competing points of views of the Petitioners and Protestants as to whether the property is

unique whether practical difficulty exists, the Board finds the Petitioner's arguments to be persuasive and finds that the Petitioner's would be eligible for variance relief if it were necessary.

ORDER

THEREFORE, IT IS THIS 23rd day of July, 2015 by the Board of Appeals of Baltimore County

ORDERED that the Petitioner's requested relief from Sections 1A04.3 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), as follows: (1) to allow an area of 9,750 sq. ft. in lieu of the required 1.5 acres; (2) to allow an open projection deck with a setback of 13 ft. in lieu of the required 37.5 ft.; (3) to allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft from any lot line, respectively; (4) to allow a building coverage of 20% in lieu of the maximum required 15; are hereby GRANTED pursuant to the standards used to review this request Section 502.1 of the BCZR or in the alternative through Petition for Variance in keeping with Cromwell v. Ward.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

BOARD OF APPEALS
FOR BALTIMORE COUNTY

Andrew M. Belt, Panel Chairman

Benfred B. Alston

Benfred B. Alston

Richard A. Wisner was a Panel member at the hearing on January 5, 2015 and public deliberation on April 6, 2015. His term expired on April 30, 2015 and he was not reappointed.

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

July 23, 2015

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

Edward C. Covahey, Jr., Esquire
Bruce Edward Covahey, Esquire
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204

RE: *In the Matter of: Roy E. Jones (Deceased) & Jean Jones – Legal Owner*
Robert Long – Contract Purchaser
Case No.: 14-172-A

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Krysundra "Sunny" Cannington
Administrator

KLC/tam
Enclosure
Duplicate Original Cover Letter

c: Jean Jones
Robert Long
Kevin and Anne Kauuders
Karl Kiesling
Bernadette Moskunas/Site Rite Surveying, Inc.
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy C. West, Assistant County Attorney
Michael E. Field, County Attorney, Office of Law

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Roy E. Jones (Deceased) and Jean Jones – Legal Owner 14-172-A
Robert Long – Contract Purchaser

DATE: April 6, 2015

BOARD/PANEL: Andrew M. Belt, Chairman
Benfred B. Alston
Richard A. Wisner

RECORDED BY: Tammy A. McDiarmid, Legal Secretary

PURPOSE: To deliberate the following:

Petition for Variance pursuant to Sections 1A04.3 and 301.1 of the B.C.Z.R. as follows:

1) To allow an area of 9,750 sq. ft. in lieu of the required 1-1/2 acres
2) To allow an open projection deck with a setback of 13 ft. in lieu of the required 37-1/2 ft.
3) To allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively.
4) To allow a building coverage of 20% in lieu of the maximum required 15%
5) To allow any variances deemed necessary by the Administrative Law Judge

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board reviewed the history of this matter. This case involves a waterfront lot created in approximately 1926 which contained a small home damaged as the result of a storm. The home was removed and as a result the lot is vacant. The Contract Purchaser proposes to build a home on the property and is in need of the requested variances in order to do so.
- This property is located in the RC5 zone which would render the requested setback variances fairly extreme. However, the lot was created before the RC 5 zone was enacted and is accordingly grandfathered. The lots in the neighborhood are approximately 50' wide.
- The neighbors on either side of the subject property oppose the requested relief. The neighbor to one side has a home of original size, and the neighbor to the other size has a larger home. The neighbors contend that their sight lines and view of the water will be impacted if the variances are granted. However, owners of waterfront property have no entitlement to water views.
- The Department of Environmental Protection and Sustainability has reviewed the Petition and has determined that the requested relief is consistent with land-use policies.
- The issue of non-conforming use and the length of time that has passed since the house was razed was discussed. There are competing statutes and spirit and intent of the BCZR. If a property owner was unable to rebuild within the 2 year period immediately following a structure being razed, they would suffer serious detrimental consequences.
- The Board discussed that there was testimony during the hearing regarding neighbors which were granted relief, and not granted relief, in prior cases. The Board ruled these cases were not relevant to the case at hand and their decision was based solely on the property which is the subject of this Petition.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the requested Petition for Variance.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

Tammy A. McDiarmid

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

March 13, 2015

NOTICE OF PUBLIC DELIBERATION

IN THE MATTER OF: Roy E. Jones (Deceased) & Jean Jones – Legal Owner
14-172-A Robert Long – Contract Purchaser
3505 Beach Road
15th Election District; 6th Councilmanic District

Re: Petition for Variance pursuant to Sections 1A04.3 and 301.1 of the B.C.Z.R. as follows:
1) To allow an area of 9,750 sq. ft. in lieu of the required 1-1/2 acres
2) To allow an open projection deck with a setback of 13 ft. in lieu of the required 37-1/2 ft.
3) To allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively.
4) To allow a building coverage of 20% in lieu of the maximum required 15%
5) To allow any variances deemed necessary by the Administrative Law Judge

4/23/14 Opinion and Order of the Administrative Law Judge wherein the requested relief was granted in part and denied in part.

The public deliberation in this matter scheduled for Thursday, March 5, 2015 was cancelled due to inclement weather and has been rescheduled at the following

DATE AND TIME: **MONDAY, APRIL 6, 2015 at 9:30 a.m.**

LOCATION: Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

Note: the record in this matter closed upon receipt of the closing memoranda previously received. No further documentation will be accepted or considered by the Board of Appeals.

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

For further information, including our inclement weather policy, please visit our webs www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

---

c: See attached Distribution List

c:	Attorney for Petitioner/Contract Purchaser	: Lawrence E. Schmidt, Esquire
	Petitioner/LO	: Jean Jones
	Contract Purchaser	: Robert Long
	Attorney for Appellants	: Edward C. Covahey, Jr., Esquire and Bruce Edward Covahey
	Appellants	: Kevin and Anne Kauuders; Karl Kiesling

Bernadette Moskunas, Site Rite Surveying, Inc.

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI
DAVID W. TERRY*
*Admitted in MD, MO, IL, AR

LAUREN DODRILL BENJAMIN
CHRISTOPHER W. COREY
MARIELA C. D'ALESSIO**
NATALIE MAYO
ELYANA TARLOW
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
**Admitted in MD, FL, PA

February 20, 2015

Via Hand Delivery
Krysundra Cannington
Administrator
Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: 3505 Beach Road
Case No. 14-0172-A

Dear Sunny,

Enclosed please find an original and three (3) copies of Petitioners' Reply Memorandum for filing in the above referenced matter.

Thank you for your consideration.

Very truly yours,

Lawrence E. Schmidt

Lawrence E. Schmidt

LES/amf
Enclosures
cc: Edward C. Covahey, Jr., Esquire
Bruce Edward Covahey, Esquire
Robert Long
Jean Jones

RECEIVED
FEB 20 2015
BALTIMORE COUNTY
BOARD OF APPEALS

RE: PETITION FOR VARIANCE	*	BEFORE THE
Robert Long, Contract Purchaser Jean Jones, Owner Petitioners	*	BOARD OF APPEALS
	*	FOR
3505 Beach Road 15th Election District 6th Councilmanic District	*	BALTIMORE COUNTY
	*	**Case No.: 2014-0172-A**
	*	

* *

REPLY MEMORANDUM IN LIEU OF CLOSING ARGUMENT

Robert Long and Jean Jones (hereinafter "**Petitioners**") by and through their attorneys, Lawrence E. Schmidt and Smith, Gildea & Schmidt, LLC, submits this Reply Memorandum In Lieu of Closing Argument to supplement their initial Memorandum and respectfully state as follows:

1. The Recordation of the Plat Does Not Constitute Approval Under BCZR § 1A04.3.B.4.

As stated in Petitioner's Memorandum in Lieu of Closing Argument, variance relief is not required in this case because of the exception from area/bulk (i.e. setback) regulations set forth in BCZR § 1A04.3.B.4. Petitioner summarized this section as containing three requirements which must be met in order for the exception to apply. Those requirements are: 1.) That the lot must be recorded in the Land Records prior to the effective date of the governing zoning regulations; 2.) That the lot must not be part of an approved subdivision; and 3.) That the lot must not be able to be developed in conformance with the minimum standards provided in the R.C. 5 zoning regulations. Indisputably, elements one and three of the test are met. Protestants concede this point (See Protestant's Memorandum Pgs. 6-7). However, Protestants contend that

element number two is not met. They argue that the recordation of the plat in the County's Land Records constitutes approval of the plan.

However, Protestants argument is erroneous. The recordation of a plan in the Land Records of Baltimore County is not an approval. There is no analysis of the plat performed by the Clerk of the Court. The recordation is a ministerial function of the Circuit Court of Baltimore County. Indeed, Baltimore County Code § 32-4-109 requires that the Clerk of the Court may not accept a plat for recordation unless it has been *approved* by the County. The "approval" anticipated in BCZR § 1A04.3.B.4 requires an analysis of the plan to ensure compliance with subdivision and zoning requirements. The Clerk of the Circuit Court performs no analysis when recording the plat. This analysis is done by administrative agencies of Baltimore County. In the context of BCZR § 1A04.3.B.4, there has been no approved subdivision. Therefore, the requirements of BCZR § 1A04.3.B.4 are met and the exception applies.

2. The Subject Property Is Unique

Assuming arguendo that a variance is required, Protestants contend that the property is not unique and thus a variance cannot be granted. Protestants state, "In sum, the overall scheme of the development provides for lots that are essentially *identical* to the Property, meaning that the Property cannot be considered a 'unique' for purposes of the Board's analysis". (emphasis in original Protestant's Memorandum, Pg.9). Identical, or unique, means "exactly the same" or "one of a kind". Protestants cite one characteristic of the Property (its' 50 foot width) and claim that because most other lots are the same that the Property can not be unique. However, this single shared characteristic does not mean that the Property is not unique. The Property's size, configuration and varying depth are features that render the Property unique. Moreover, as noted in Petitioner's initial memorandum, variances have been granted for a number of properties in

this community that are shown on the plat. Therefore, the zoning authorities of Baltimore County have determined that these properties are unique. The finding of uniqueness was a prerequisite to a grant of those variances. The Protestants' argument is contrary to these decisions because none of the variances granted would have been approved if all the properties in this community were, as Protestants suggest, the same.

3. The Petitioner would Suffer Practical Difficulty If Relief Were Denied

Protestants contend that no practical difficulty would result if relief were denied in that the "status quo" would be maintained. Protestants apparently conclude that retaining the property as a vacant unimproved lot is an appropriate use thereof.[1] Such argument misconstrues the definition of practical difficulty under law. As stated in McLean v. Soley, 270 Md. 208 (1973), practical difficulty results if a property owner would be unreasonably prevented from using property for a permitted purpose. Undisputedly, the zoning of the Property permits a single family detached dwelling as a use permitted by right. Strict adherence to the regulations would prohibit the construction of any dwelling on the lot. The fact that the Petitioners did not exercise rights available under the County's nonconforming use statutes (BCZR § 104.1 and § 305.1) is irrelevant. The draconian result which would result if relief were not granted surely constitutes practical difficulty.

4. Granting of Relief Would be Consistent with the BCZR and Compatible with the Neighborhood

Protestants contend that construction of a dwelling would be incompatible with other provisions of County law. For example, they contend that construction will cause detrimental environmental impacts. (Protestant's Memorandum Pg. 12-14). However, the Department of

[1] No doubt if the Property cannot be built on, it will have no use to the owner and could possibly be acquired by the adjacent Protestants for a distressed price.

Environmental Protection and Sustainability has recommended approval of the project. (Petitioner's Exhibit 11). The rezoning of the neighborhood to the R.C. classification has rendered nearly every individual property nonconforming. As is evidenced from the other zoning cases in the community cited, redevelopment in this community has necessitated zoning relief in nearly every circumstance. Typical of much of the County's waterfront, redevelopment of the subject Property with a modern dwelling represents an improvement to the economic base and community at large. The proposal is neither inconsistent with development in this area nor contrary to the spirit and intent of the BCZR.

I. CONCLUSION

The Petitioner restates and incorporates herein the arguments and points of law cited in its Memorandum in Lieu of Closing Argument. For the reasons stated in these Memoranda, this Board should grant Petitioners' requested relief, and allow the construction of the proposed replacement dwelling on the Property.

Respectfully Submitted,

LAWRENCE E. SCHMIDT
CHRISTOPHER W. COREY
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
(410) 821-0070
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 20th day of February, 2015, a copy of the foregoing Reply Memorandum was mailed, postage pre-paid, to:

Edward C. Covahey, Jr., Esquire
Bruce Edward Covahey, Esquire
Covahey, Boozer, Devan & Dore, P.A.
614 Bosley Avenue
Towson, MD 21204

LAWRENCE E. SCHMIDT
CHRISTOPHER W. COREY

IN THE MATTER OF	*	BEFORE THE COUNTY
ROY E. JONES (DECEASED),	*	BOARD OF APPEALS
JEAN JONES AND	*	FOR
ROBERT LONG	*	BALTIMORE COUNTY
Legal Owners/Petitioners/Contract Purchaser	*	CASE NO. 14-172-A
	*	

* * * * * * * * * * * * * * * *

BRIEF AND MEMORANDUM OF PROTESTANTS IN OPPOSITION TO PETITION FOR VARIANCE

Karl Kiessling, Kevin Kauders and Anne Kauders, Protestants, by Edward C. Covahey, Jr., Bruce Edward Covahey and Covahey & Boozer, P.A., their attorneys, respectfully submit this Brief and Memorandum in Opposition to Petition for Variance in lieu of closing argument as requested by the Board of Appeals for Baltimore County ("Board") at the conclusion of the hearing held on January 5, 2015.

STATEMENT OF THE CASE

The Petitioners are the record owner(s) and contract purchaser of property located at 3505 Beach Road, Middle River, Maryland 21220 ("Property"), which is waterfront property fronting on Seneca Creek. Petrs.' Ex. 2, 3, 4. The Property is currently unimproved, excluding two small storage sheds, which are presently located in the front yard of the Property[1]. Petrs.' Ex. 1, 10C, 10D, 10H, 10I, 10M, 10N. The Property has been unimproved since a dwelling on the Property was

demolished by Roy E. Jones and Jean Jones in 2005. The prior dwelling represented a pre-existing non-conforming use. Baltimore County Zoning Regulations ("BCZR") § 101.1.

The instant case commenced on or about February 21, 2014, when the Petitioners filed a Petition for Variance ("Petition") with regard to the Property. The Petition requested variances from BCZR §§ 1A04.3 and 301.1 to provide the following relief:

1. To allow an area of 9,750 sq. ft. in lieu of the required 1 ½ acres.
2. To allow an open projection deck with a setback of 13 ft. in lieu of the required 37 ½ ft.
3. To allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. setback from the centerline of the road and 50 ft. from any lot line, respectively.
4. To allow a building coverage of 20% in lieu of the maximum required [*sic*] 15%.
5. To allow any variances deemed necessary by the Administrative Law Judge.

Petition, p. 2.

A hearing on the Petition was held before John E. Beverungen, Administrative Law Judge of the Baltimore County Office of Administrative Hearings, after which Judge Beverungen issued an Opinion and Order dated April 23, 2014 ("Order") in which he granted the requested variances. However, Judge Beverungen modified the requested relief by requiring the sideyard setbacks of the proposed dwelling to be 10 feet instead of the requested 9 feet. Order, p. 3.

This matter comes before the Board as the result of a timely appeal filed by Protestants, Karl Kiessling, Kevin Kauders and Anne Kauders, from the Order

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[1] Since the property fronts on Seneca Creek, the waterfront side of the Property is considered the "front yard" for zoning purposes, with the Beach Road side of the Property representing the "rear

issued by Judge Beverungen. A *de novo* hearing was held before the Board on January 5, 2015. At the Board's direction, the parties are submitting memoranda in lieu of closing arguments.

The Petition is the only matter to be considered by the Board at this time. As noted, the Petition exclusively seeks relief by way of the variance process pursuant to BCZR § 307. However, in their Memorandum, the Petitioners have asserted that no variance is required and that they are entitled to equivalent relief pursuant to BCZR § 1A04.3.B.

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yard." Baltimore County Zoning Commissioners' Policy Manual ("ZCPM") §§ 400.1.a, 400.2.a.

QUESTIONS PRESENTED

I. **WHETHER THE PETITIONERS MUST OBTAIN A VARIANCE BEFORE CONSTRUCTING THE PROPOSED RESIDENCE ON THEIR PROPERTY SINCE NO EXCEPTIONS TO THE VARIANCE REQUIREMENT APPLY TO THIS MATTER.**

II. **WHETHER THE EVIDENCE ESTABLISHING THAT THE PETITIONERS' PROPERTY IS NOT UNIQUE AND THAT DENIAL OF THEIR VARIANCE REQUEST WOULD CAUSE NO PRACTICAL DIFFICULTY TO THEM REQUIRES THE BOARD TO DENY THEIR PETITION FOR VARIANCE.**

III. **WHETHER THE PRIOR NON-CONFORMING USE OF THE PROPERTY WAS TERMINATED MORE THAN TWO YEARS PRIOR TO THE FILING OF THE PETITION, THUS PRECLUDING ANY FURTHER NON-CONFORMING USE OF THE PROPERTY.**

STATEMENT OF THE FACTS

As noted above, the Petitioners are the record owner(s) and contract purchaser of the Property. Petrs.' Ex. 4. The Property is currently unimproved, excluding two storage sheds located in the Property's front yard. Petrs.' Ex. 1. The prior dwelling on the Property was demolished by the record owner(s) in 2005. The Property has remained vacant since that time.

The Property is classified for zoning purposes as R.C.5. Accordingly, it is subject to the following requirements regarding building sizes and property line setbacks:

1. A lot having an area of less than 1 ½ acres may not be created in an R.C.5 Zone.
2. Any principal building . . . constructed in an R.C.5 Zone shall be situated . . . at least 75 from the center line of any other street or road, and at least 50 feet from any lot line other than a street line.
3. No more than 15% of any lot in an R.C.5 Zone may be covered by buildings.

BCZR § 1A04.3.

The Protestants reside on lots abutting the Property on either side. Their properties are each improved by single-family dwellings. Petrs.' Ex. 1. Neither dwelling complies with the R.C.5 regulations, however each dwelling represents the continuance of a pre-existing non-conforming use. BCZR § 101.1.

The residence on the Kiessling property, located at 3503 Beach Road, was constructed in 2005, after the previous dwelling was damaged by Hurricane Isabel in 2003 and razed in 2004. The current dwelling sits within the footprint of the prior dwelling, though it is taller than the prior residence.

The Kauders residence, located at 3507 Beach Road, was constructed in or about 1947, thus predating the adoption of Baltimore County's comprehensive zoning scheme. BCZR § 103.1; Appx. A. The carport attached to the house has been converted into an enclosed garage. Otherwise, the dwelling is the same as when it was constructed and occupies the same footprint.

Petitioner, Robert Long, who is a licensed real estate broker, real estate developer and a member of the Maryland House of Delegates, signed a contract of sale for the purchase of the Property from Petitioner, Jean Jones, in or about December 2013. Despite his role as a broker and developer, he insisted during his testimony that he intends to use the Property to build his retirement home. In any event, Long's obligation to purchase the Property is contingent upon the granting of the variances requested in the Petition, as no dwelling can be constructed on the Property without the requested relief. Accordingly, he can terminate the contract if the subject variance is denied.

ARGUMENT

I. NO EXCEPTIONS TO THE VARIANCE REQUIREMENT EXIST IN THIS MATTER, THUS THE PETITIONERS MUST OBTAIN A VARIANCE TO CONSTRUCT THEIR PROPOSED DWELLING.

While the Petition seeks variance relief pursuant to BCZR § 307.1, the Petitioners now contend for the first time that they do not require a variance to obtain the relief requested. Petrs.' Mem., 6-13. Specifically, they contend that BCZR § 1A04.3.B contains exceptions that preclude the need for a variance for undersized lots in R.C.5 zones. However, the Property does not meet the criteria to qualify for those exceptions.

The Petitioners first cite to BCZR § 1A04.3.B.1.a, which precludes the creation of a lot under 1.5 acres in size in an R.C.5 Zone. The Petitioners are correct in noting that the Property is not being "created" as a new lot since it has existed since 1926, which point is not in dispute. However, that fact, in of itself, does not preclude the need for a variance to obtain the requested relief.

The Petitioners next contend that BCZR § 1A04.3.B.4 provides for an exception to the applicable setback and lot size requirements. Petrs.' Mem., 7. The alleged exception allows residential development to occur in accordance with "the standards prescribed in force at the time of the lot recordation." BCZR § 1A04.3.B.4. For the sake of clarity, the Petitioners paraphrase the requirements of that section to set forth the following criteria: (1) an existing lot must be recorded in the Baltimore County Land Records prior to the effective date of the governing zoning regulations, (2) the lot must not be part of an approved subdivision, and (3)

the lot must not be able to be developed in conformance with the minimum requirements provided within the zone. Petrs'. Mem., 7; BCZR § 1A04.3.4.

The exception does not apply in this instance because the second element cannot be met. The Petitioners contend that the property is not part of an "approved subdivision" because "in 1926 Baltimore County had yet to enact a subdivision process." Petrs.' Mem. 8. However, the Petitioners offer no authority for that limitation. Instead, BCZR § 101.1 provides that a "subdivision" is "[t]he subdivision of any tract or parcel of land . . . into two or more lots, plots or other divisions of land for the purpose, whether immediate or in the future, of building development for rental or sale . . ." BCZR § 101.1.

The preparation and recording of the Plat of Seneca Park Beach represents precisely the act described in BCZR § 101.1. *See* Petrs.' Ex. 2. Specifically, the original parcel of land was divided into multiple lots for building development. Moreover, at a minimum, the plat was accepted for recording among the Land Records of Baltimore County, meaning the subdivision was "approved" to the full extent necessary at the time of the subdivision. Accordingly, the Property is part of an "approved subdivision", meaning the second element of the exception cannot be met and a variance must be obtained.

II. THE PROPERTY IS ESSENTIALLY IDENTICAL TO ALL OTHER PARCELS IN THE NEIGHBORHOOD AND THUS IT IS NOT UNIQUE FOR ZONING PURPOSES.

In Cromwell v. Ward, 102 Md.App. 691 (1995), the Court of Special Appeals articulated the benchmark against which all Baltimore County variance cases are to

be measured. Judge Cathell, writing for the Court of Special Appeals, crystallized the variance process as a two step process:

> The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is – in and of itself – unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship.

Cromwell, 102 Md.App. at 694.

Judge Cathell, writing for the Court of Special Appeals in North v. St. Mary's County, 99 Md.App. 502 (1994), previously expounded on what is required in order to show that a property is unique.

> "Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historic significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.

North, 99 Md.App. at 514.

In the case at bar, the Property is lot with a width of 50 feet abutting Seneca Creek and Beach Road. Petrs.' Ex. 1, 3. The side boundaries of the Property are parallel to one another, making the Property nearly rectangular. Id. The Protestants' properties are likewise 50 foot wide lots abutting Seneca Creek and Beach Road. Petrs.' Ex. 1. As acknowledged by the Petitioners' expert witness, Bernadette Moskunas, the only difference between the Property and the Protestants' lots is the contour of their respective shorelines on Seneca Creek.

However, that minimal difference is wholly insufficient to make the Property "unique" for zoning purposes.

Taking a wider view, the record plat creating the Property and surrounding development further establishes that the Property is not "unique." The Plat of Seneca Park Beach, which was admitted into evidence as Petitioners' Exhibit 2, shows that the overwhelming majority of the approximately 170 lots in the community are 50 foot lots with parallel side boundaries. Petrs.' Ex. 2. The small handful of lots that do not fit that description are wedge shaped lots created to fill curves on the shoreline or to fill space in the interior portion of the development. Id. In sum, the overall scheme of the development provides for lots that are essentially *identical* to the Property, meaning the Property cannot be considered "unique" for purposes of the Board's analysis.

Since the Property is not unique, the initial prong of the Cromwell test cannot be satisfied and the requested variance must be denied. Therefore, this Board's inquiry is at an end. Specifically, as noted in Cromwell, "the process stops here and the variance is denied *without any consideration of practical difficulty or unreasonable hardship*." Cromwell, 102 Md.App. at 694 (emphasis added). .Nevertheless, in an abundance of caution, that issue will be addressed.

III. THE PETITIONERS FACE NO PRACTICAL DIFFICULTY IF THE VARIANCE IS DENIED BECAUSE THE CURRENT STATUS QUO WILL BE MAINTAINED.

Assuming, *arguendo*, that the Board concludes that the Property is "unique", the Board must next determine whether practical difficulty or unreasonable hardship

exists, "resulting from the disproportionate impact of the ordinance *caused by the property's uniqueness*." Cromwell, 102 Md.App. at 695 (emphasis added).

Whether the Board must apply the "undue hardship" or "practical difficulty" standard in reviewing a variance depends upon the nature of the variance in question. When the request is for a use variance, the "undue hardship" standard applies, while the "practical difficulty" standard applies to area variances. In this instance, the Petitioners have requested an area variance, as they have sought relief from setback requirements, minimum lot size requirements and lot coverage limitations. Accordingly, the "practical difficulty" standard applies.

In McLean v. Soley, 270 Md. 208 (1973), the Court of Appeals set forth the difficult burden that must be met to establish a "practical difficulty." The McLean Court stated that the party seeking a variance must show:

1. Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
2. Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

McLean, 270 Md. at 214-15.

A. Strict compliance with the BCZR would maintain the status quo fostered by the Petitioners.

Applying the standard set forth in McLean, the Board must first consider whether strict compliance with BCZR § 400.1 "would unreasonably prevent the

[Petitioners] from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome." McLean, 270 Md. 214. In the case at bar, strict application of the lot size, lot coverage and setback restrictions of BCZR § 1A04.3 would preclude the Petitioners from constructing the proposed dwelling on the Property. However, that result is mandated solely because Mr. and Mrs. Jones elected not to construct a replacement dwelling on the Property within two years of the demolition of the previous dwelling.

The dwelling previously located on the Property existed as a permitted non-conforming use since the size of the Property and the location of the dwelling violated multiple provisions of the Baltimore County Zoning Regulations. BCZR § 101.1. BCZR § 104.2 provides that any structure that represents a non-conforming use and which is "damaged to any extent or destroyed by fire or other casualty may be restored within two years after such destruction or damage but may not be enlarged." That provision afforded the Petitioners a period of two years after the demolition of the original dwelling within which to build a new dwelling on the Property. However, the Petitioners elected not to take advantage of that opportunity.

The original dwelling on the Property was damaged by Hurricane Isabel in 2003 and ultimately razed in 2005. Using the later date as a starting point, approximately nine years lapsed between the demolition of the property and the filing of the Petition. Therefore, by electing to allow that amount of time to pass, the Petitioners have forfeited the benefit of BCZR § 1A04.2 and must abide by the consequences.

The Petitioners' actions have created a status quo in which the Property has remained unimproved and vacant for nearly ten years, without placing undue burden on the community and the Chesapeake Bay and its tributaries. Strict compliance with the applicable regulations would merely maintain that status, which result should be encouraged by the Board.

Also, during the hearing before the Board, the Board inquired as to whether a non-conforming use should be allowed after twenty five months, suggesting that the strict application of the two year limit of BCZR § 1A04.2 would lead to an unduly harsh result. In that regard, a bright line should be applied whenever the legislature imposes a specific time limit, lest uncertainty result. In any event, even drawing a blurrier line would not result in approval of a variance requested approximately *seven years* after the lapse of the two year period.

B. Granting of the Petition for Variance would impose substantial harm upon the other residents of the subject neighborhood.

The Board must next consider "whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners." McLean, 270 Md. at 214-15. The Protestants, who are the owners of the properties located immediately adjacent to the Property on either side, appeared at the hearing before the Board and offered compelling reasons for the denial of the variance.

Among the reasons listed, Protestant Karl Kiessling noted that the proposed house would be only 11 feet from his residence, as show on the Petitioners' site plan. Petrs.' Ex. 1. The Protestants noted with obvious concern that the location of the dwelling would create a fire hazard in light of its proximity to their own houses. The Petitioners suggested that that concern would be minimized by the installation of sprinklers in the new dwelling. However, even the existence of a sprinkler system will not eliminate the very real risk of a fire spreading to the adjacent homes.

The Protestants also stated that the proposed dwelling would be inconsistent with the rest of the neighborhood because it would be built on a substantially larger footprint than the prior dwelling. The construction of the proposed dwelling would effectively create a wall of houses along Beach Road, with a minimal gap between houses. Protestant Kevin Kauders aptly stated that the result would make the community resemble a "townhouse development." Such a result is not appropriate in a community abutting a tributary of the Chesapeake Bay.

The evidence offered by the Protestants also demonstrated that the Property is prone to significant flooding, even under fairly benign weather and/or water conditions. Protestants' Ex. 1-8. Any grading to alleviate that condition would either redirect water onto the Protestants' lots or direct water back into Seneca Creek after it has been exposed to fertilizer and other pollutants. In either event, the community would be negatively affected by the change.

The construction of a new home on the Property would also interfere with the views currently enjoyed by the Protestants. In particular, Protestants Anne and Kevin Kauders would see their view significantly reduced because the proposed

new dwelling sits closer to Seneca Creek than their residence. Petrs.' Ex. 1. Allowing the proposed dwelling to exceed the footprint of the original dwelling would only serve to further exacerbate the harm imposed upon the Protestants. In addition, such encroachment will inevitably result in a decrease in the values of the Protestants' properties.

Citing Chesley v. City of Annapolis, 176 Md.App. 413 (2007), the Petitioners suggest that the Protestants do not enjoy a guaranteed right to a view across the Property. Petrs.' Mem., 11. However, a review of the Chesley decision does not provide specific authority to that effect. More importantly, the Court of Special Appeals opinion in Chesley approved of the administrative agency's consideration of the impact on neighbors' views and the streetscape in its review of a variance request. Chesley, 176 Md.App. at 444-45.

Finally, the Protestants also noted that constructing a dwelling on the Property will increase existing parking problems on Beach Road. The street is currently inadequate to support existing traffic needs. Adding new residents to the neighborhood will only increase the burden on Beach Road and the surrounding neighborhood.

In sum, the granting of the variance would result in significant harm to the community. Therefore, the Petition must be denied.

C. The granting of the Petition for Variance is wholly inconsistent with the spirit and intent of the BCZR.

The final portion of the Board's analysis requires determining "[w]hether relief can be granted in such fashion that the spirit of the ordinance will be observed and

public safety and welfare secured." McLean, 270 Md. 214-15. This prong parallels the language of BCZR § 307 allowing the Board to grant a variance only when the variance is in "harmony with the spirit and intent" of the applicable regulations. BCZR § 307.

The "spirit and intent" of R.C.5 zoning classification includes placing significant curbs on development in both rural areas and areas adjacent to the Chesapeake Bay and its tributaries. Specifically, BCZR § 1A00.2 states that Rural Conservation Zones serve to "[h]elp achieve the goals of the Chesapeake Bay Critical Area Protection Law[2] by enacting land use policies to control development within the Critical Area by conserving the land and water resource base." BCZR § 1A00.2(E). The zones also serve to "minimiz[e] adverse effects on water quality" and "conserv[e] fish, wildlife and plant habitat." Id. Recognizing those stated goals, the "spirit and intent" of R.C.5 zoning is promoted by limiting development to those properties that can meet the strict criteria of that zoning designation, including the limitations set forth in BCZR § 1A04.3.

Granting the Petitioners' variance request would subvert the goals behind the R.C.5 classification by allowing intensive development of a property located upon a key tributary of the Chesapeake Bay. Such development would only add to the burden on public utilities that impact the bay, such as sanitary sewage treatment systems, and cause additional pollution and runoff into Seneca Creek and the Chesapeake Bay. Therefore, the variance must be denied.

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2 Title 8, Subtitle 18 of the Natural Resources Article of the Annotated Code of Maryland.

Overall, the application of the McLean standard demonstrates that strict application of the provisions of BCZR § 1A04.3 would not result in a "practical difficulty" for the Petitioners. Furthermore, relaxation of those provisions would result in significant harm to the neighboring community. Accordingly, their Petition for Variance must be denied.

IV. IF THE SPECIAL HEARING STANDARD APPLIES, RELIEF MUST BE DENIED BECAUSE THE PROPOSED DWELLING WILL HARM THE COMMUNITY.

As an alternative to their theory that no variance is required in this matter, the Petitioners contend that their dwelling is permitted pursuant to the special hearing provisions of BCZR § 1A04.3.B.1.b.1. Petrs.' Mem., 9. That section of the BCZR provides as follows:

> The owner of a single lot of record that is not a subdivision and that is in existence prior to September 2, 2003, but does not meet the minimum acreage requirement, or does not meet the setback requirement of Paragraph 2, may apply for a special hearing under Article 5 to alter the lot size requirement. However, the provisions of Section 1A04.4 may not be varied.

BCZR § 1A04.3.B.1.b.1.

The Petitioners posit that the regulation should refer to a "single lot of record that is not *in* a subdivision" to provide clarity. Petrs.' Mem., 9 (fn. 3)(emphasis added). The Protestants agree that represents a reasonable reading of the regulation, as the actual language is inconsistent.

Reading that change into § 1A04.3.B.1.b.1, only two of the three criteria apply to the Property. The Property undisputedly existed prior to September 2, 2003 and does not meet the minimum acreage and setback requirements for the R.C.5 zone. However, as discussed above, the Property is located in the

subdivision created by the recording of the Plat of Seneca Creek Beach. *See* Section I, *supra*. Accordingly, the Property does not qualify for special hearing relief pursuant to BCZR § 1A04.3.B.1.b.1.

Assuming, without conceding the point, that relief can be granted pursuant to § 1A04.3.B.1.b.1, consideration must be given to the standard that must be met to obtain special hearing relief. The Petitioners, citing prior decisions by the Baltimore County Office of Administrative Hearings, suggest that they must demonstrate "that the proposed use would not adversely impact the health, safety and welfare of the community." Petrs' Mem. 11 (citing Opinion and Order, In re: Petition for Special Hearing (4009 Briar Point Road), Balt. Co. OAH, Case No. 2014-0283-SPH (August 28, 2014)). The Petitioners also suggest that the Board must consider whether the proposed relief would be "generally consistent with the spirit and intent of the legislation." Petrs.' Mem. 10.

If those standards are, in fact, the standards to be applied, they track closely to the final prong of the McLean v. Soley standard, which requires consideration of whether "relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured." McLean, 270 Md. at 214-15. That standard has been discussed at length in Section III above. Therefore, for the sake of brevity, it will not be reviewed again. However, as demonstrated above, it is clear that the proposed dwelling would harm public safety and welfare and is inconsistent with the spirit of the BCZR.

One point that must be discussed is the Petitioners' contention that the dwelling, as proposed, is "arranged and oriented to 'complement those dwellings in

the surrounding community.'" Petrs.' Mem. 12 (quoting BCZR § 1A04.4.D.1.e). In support of that contention, the Petitioners suggest that "many dwellings in the neighborhood are built closer to the water than the proposed +/- 87 [feet] in this case." Petrs.' Mem. 12. However, the Petitioners neglect to mention that the dwelling would be substantially closer to Seneca Creek than the dwelling on the *immediately adjacent* Kauders property.

V. THE GRANTING OF VARIANCES REGARDING OTHER PROPERTIES IS INAPPOSITE TO THE PETITION BECAUSE THOSE MATTERS INVOLVED WHOLLY SEPARATE ISSUES.

The Petitioners appended to their Memorandum several opinions by the Baltimore County Office of Administrative Hearings and/or the Baltimore County Zoning Commissioner regarding unrelated variance petitions. Petrs.' Mem., Appx. 3A-3D. Those cases are inapposite to the case at bar because they involve issues separate and distinct from those before the Board. In addition, the Board must consider all variance petitions *de novo*, meaning decisions of the Zoning Commissioner and/or Office of Administrative Hearings are entitled to no persuasive or precedential authority. Therefore, the cases offered by the Petitioners should not be given any weight or consideration by the Board.

To the extent any consideration is given, it should be noted that two of the matters involved variance petitions that were unopposed. Petrs.' Mem., Appx. 3B, 3D. Another case involved one of the rare pie-shaped lots in the Seneca Park Beach neighborhood. Petrs.' Mem., Appx. 3D. To the extent that property may be unique, it is unique for precisely the reason that the Property is not, *i.e.*, that all but a small handful of lots in the neighborhood are uniform 50 foot wide lots.

VI. THE DEVELOPMENTS ON THE PROTESTANTS' PROPERTIES DO NOT SUPPORT OR JUSTIFY THE PETITIONERS' VARIANCE CLAIM.

The Petitioners contend that the Protestants' own actions are inconsistent with their present position and/or that their current positions are "hypocritical." Petrs.' Mem. 18. However, with regard to Protestant Karl Kiessling, that contention is based upon an incorrect statement of facts. With regard to Protestants Kevin and Anne Kauders, that assertion improperly relies on conditions on the Kauders property.

Like the residence on the Property, the Kiessling residence was damaged by Hurricane Isabel in September 2003. The Petitioners state that a new house was constructed on the lot in 2006. Petrs.' Mem., 18 Therefore, since more than two years purportedly lapsed between the original damage and the construction of the new residence, the Petitioners allege that a variance was required to build the new house. Id. However, that contention overlooks the fact that the Kiessling residence was not razed until 2004 and was rebuilt in 2005, meaning the construction took place well within the two year window provided by BCZR § 1A04.2.

With regard to the Kauders property, the Petitioners attempt to minimize the obvious impact of the proposed dwelling by pointing to the accessory structure on that property. Id. That effort should be given no credence, as the existence of a shed on the Kauders property does not give the Petitioners grounds to build a large, obtrusive dwelling on the Property to the detriment of their neighbors.

VII. CONCLUSION

For the reasons set forth above, the Petitioners must obtain a variance to construct their proposed dwelling. It is clear that they have not met their burden of

proof pursuant to BCZR § 307, Cromwell v. Ward, and other applicable authorities. It is also clear that any non-conforming use of the Property was terminated for more than two years and cannot be continued or revived. Therefore, the Petitioners' Petition for Variance must be denied.

EDWARD C. COVAHEY, JR.

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Anne Kauders

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of February, 2015, a copy of the foregoing Brief and Memorandum in Support of Petition for Variance was mailed, first class, postage prepaid, to:

Lawrence E. Schmidt, Esquire
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BRUCE EDWARD COVAHEY

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**Admitted in MD, FL, PA

February 6, 2015

Via Hand Delivery
Krysundra Cannington
Administrator
Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: 3505 Beach Road
Case No. 14-0172-A

Dear Sunny,

Enclosed please find an original and three (3) copies of Petitioners' Post Hearing Memorandum for filing in the above referenced matter.

Thank you for your consideration.

Very truly yours,

Lawrence E. Schmidt /amf

Lawrence E. Schmidt

LES/amf
Enclosures
cc: Edward C. Covahey, Jr., Esquire
Bruce Edward Covahey, Esquire
Robert Long
Jean Jones

RE: PETITION FOR VARIANCE	*	BEFORE THE
Robert Long, *Contract Purchaser* Jean Jones, *Owner* Petitioners	*	BOARD OF APPEALS
	*	FOR
3505 Beach Road 15th Election District 6th Councilmanic District	*	BALTIMORE COUNTY
	*	**Case No.: 2014-0172-A**
	*	

* *

MEMORANDUM IN LIEU OF CLOSING ARGUMENT

Robert Long and Jean Jones (hereinafter "**Petitioners**") by and through their attorneys, Lawrence E. Schmidt and Smith, Gildea & Schmidt, LLC, submits this Memorandum In Lieu of Closing Argument and respectfully state as follows:

I. STATEMENT OF THE CASE

This matter comes to the Board of Appeals (hereinafter "Board") as a *de novo* appeal of the decision of Administrative Law Judge ("ALJ") John Beverungen which was issued on April 23, 2014. Therein, ALJ Beverungen approved the Petitioners' request to construct a replacement dwelling on the property at issue; finding that the proposed dwelling is permitted as both a lawful non-conforming use and meets the requirements for certain required zoning variances. Variance relief was granted from the Baltimore County Zoning Regulations ("BCZR") as follows: (1) to allow a lot area of 9,750 sq. ft. in lieu of the required 1.5 acres; (2) to allow an open projection deck (in the rear/street facing yard) with a setback of 13 ft. in lieu of the required 37.5 ft.; (3) to allow a replacement dwelling with a rear yard setback of 33 ft. in lieu of the required 75 ft. from the centerline of the road and side yard setbacks of 9 feet on each side in lieu of the required 50 ft. from any lot line; and (4) to the extent necessary when constructing a replacement dwelling that is no greater than 25% larger than the former dwelling on site which was razed, to allow a

building coverage of 20% of the lot in lieu of the maximum permitted 15% lot coverage. ALJ Beverungen slightly modified the requested relief by permitting side yard setbacks (on both sides) of 10 feet, in lieu of the requested 9 feet.

An appeal of ALJ Beverungen's decision was filed to the Board by Karl Kiesling, Kevin Kauuders, and Anne Kauuders (the "Protestants"), by and through their attorney, Edward C. Covahey, Jr. After several postponements, the Board held a *de novo* hearing on January 5, 2015. Appearing at that hearing were the aforementioned Protestants and their counsel. Appearing at the hearing in support of the petition was Robert Long, contract purchaser of the property, Bernadette Moskunas, expert witness, and the undersigned counsel. As a preliminary matter at the hearing, Petitioners sought confirmation from the Board that in view of the *de novo* nature of the Board's review, Petitioners would be able to present any legal theory of relief that they deem appropriate to the issues presented and would not be limited to only the variance and non-conforming issues relied upon by ALJ Beverungen.[1] The Board agreed that any legal arguments presented by the parties would be entertained. At the conclusion of the hearing, in order to ensure fairness to all concerned, the Board requested that the parties submit memoranda in lieu of closing arguments with the following schedule: Petitioner's Memorandum due January 30th; Protestant's Memorandum due February 6th; and Petitioner's Response Memorandum (if deemed necessary) due February 13th.[2] This closing memorandum thus follows.

II. BACKGROUND

Petitioner's case was presented through the testimony of Robert Long (contract purchaser) and Bernadette Moskunas, whose firm prepared the plan accepted into evidence as

[1] As an alternative, Petitioners offered to refile the instant petition if the issues considered by the Board were to be limited to variance and non-conforming relief.

[2] A slight modification to this schedule was subsequently agreed to by the parties and accepted by the Board.

Exhibit 1. Additionally, certain other documentary evidence was submitted as exhibits. Ms. Moskunas was accepted by the Board as a project manager for Site Rite Surveying, Inc. and permitted to render opinions regarding the applicable provisions of the BCZR.

Collectively, Petitioner's evidence established that the property is located within the Middle River community of eastern Baltimore County and bears the address 3505 Beach Road (the "Property"). The Property is part of a subdivision known as "Seneca Park Beach", which is recorded and platted in the Land Records of Baltimore County in Plat Book 8, Page 45. Petitioners' Exhibit 5. The Seneca Park Beach Plat was recorded on May 28, 1926, and the Property is identified within the Plat as lot number 47. Petitioners' Exhibit 5.

The zoning classification of the Property is Resource Conservation ("R.C.") 5 and the lot area is +/- 9,750 sq. ft. Petitioners' Exhibit 1. Additionally, under the State and County administered Chesapeake Bay Critical Area ("CBCA") regulations, the property is designated as a Limited Development Area ("LDA") and is within a Buffer Management Area ("BMA"), and therefore must comply with the CBCA Regulations. The Property is +/- 50 feet wide; however, because of the unique contour of the shoreline, the depth of the property is not uniform. Petitioners' Exhibit 1. Specifically, the western boundary of the property is +/- 180 feet long, while the eastern boundary of the property is +/- 170 feet long. Petitioners' Exhibit 1.

Prior to September 2003, the Property was improved with a single family detached dwelling which apparently existed for many years. Unfortunately, this dwelling was severely damaged by Hurricane Isabel in September of 2003, and as a result the structure was not habitable and had to be razed. The relief requested in the present case is to obtain approval to construct a replacement dwelling on the Property. The replacement dwelling will be larger than the previous structure but less than the 25% increase limitation set forth in BCZR § 104. See also

BCZR § 305.1. The proposed replacement dwelling is 30 feet wide and 46 feet long, with a single-level open projection deck attached to the rear of the dwelling. Building elevation drawings depicting the architecture of the dwelling were submitted as Exhibit 12A and 12B. Although the existing house has been razed and removed, two existing accessory sheds remain on the property, but they also will be removed.

In connection with this request, Zoning Advisory Committee ("ZAC") comments were submitted by Environmental Protection and Sustainability ("EPS"), the Bureau of Development Plans Review ("DPR"), and the Department of Planning ("DOP"). On December 19, 2014, pursuant to BCZR § 500.14, EPS evaluated the subject petition for compliance with the goals of the CBCA law, stating that "the relief requested will be consistent with established land-use policies for development in the Critical Area." Thus, EPS has no objection to the new dwelling as proposed. Additionally, on March 20, 2014, DPR noted that Petitioners are required to satisfy the County's flood protection laws, but did not oppose Petitioners' request. In this regard, the house will be constructed in a manner consistent with other new houses in the area, so that the living quarters will be elevated above the flood plain and vehicular parking provided underneath the living quarters. Finally, through its' written comment dated April 7, 2014, the DOP supported Petitioners' requested relief, finding that "the proposal was consistent with the RC 5 zone performance standards." See BCZR § 1A04.4.

Ms. Moskunas testified that both the size and shape of the Property are unique. She noted the irregular depth of the property and that the acreage and configuration of the property was unlike other properties in the area. Ms. Moskunas also testified that the Petitioners would suffer practical difficulty if their request to construct a replacement dwelling is denied, because (due to the property's size, shape and configuration) there is no location on the property where a

residence could be constructed in conformance with the BCZR. Further, Ms. Moskunas testified that considering the surrounding neighborhood and site constraints at issue, the construction of the proposed dwelling would be consistent with the RC 5 zoning regulations, compatible with the neighborhood and would not cause injury to the public health, safety, or general welfare.

The Protestants' testimony and objections will no doubt be summarized in their closing memorandum. The Protestants live on either side of the subject property and their properties are also zoned RC 5. Generally however, they fear flooding conditions generated by the proposed construction, and overcrowding of the land and a disruption of their view. In this regard, it is to be noted that DPR addressed the County's flood plain requirements in their written recommendation (which does not oppose the request) and that both neighbor's houses are closer to the respective property line than what is proposed on the subject property. Indeed, Mr. Kauders obtained a variance relief in Case No. 05-286-A to allow certain improvements to his property, including relief to allow his dwelling (attached garage) to come within two feet of the 3505 Beach Road property line. Additionally, the variance he obtained allowed his property to exceed the 15% lot coverage limitation. Moreover, both neighbors' lots could be considered "over developed" given the size of their respective dwellings and the accessory structures which collectively occupy a large portion of their respective lots. This is particularly relevant insofar as the lot coverage limitations. Finally, both neighbors acknowledged that they do not own a "view easement" or other documented right to a view of the water across the Property at issue. As has been established by case law and the zoning authorities of Baltimore County, there is no legal "right to a view" across another's property. See *Chelsey v. City of Annapolis,* 176 Md. App. 413 (2007).

III. ARGUMENT

1. Variance Relief is not Required from the Minimum 'Lot Area' Requirement, as no Lot in this Case is being 'Created'

The first request within the Petition as filed is "to allow an area of 9,750 square feet in lieu of the required 1.5 acres." However, while it appears that this request was made out of an abundance of caution, it is undoubtedly true that this relief is not necessary under the circumstances at issue. The regulation at issue is BCZR § 1A04.3.B.1.a, which states, "[a] lot having an area of less than 1 1/2 acres may not be *created* in an R.C.5 Zone." (Emphasis added). The operative word is "created." Clearly this provision is not applicable in the present case as no lot is being created by the Petitioners. The lot at issue was created many years ago, when the Seneca Park Beach Plat, dated May 28, 1926, was recorded in the Land Records. Petitioners' Exhibit 2. Undoubtedly, this regulation is designed to prevent an individual, during the subdivision process, from creating lots in the RC 5 zone that are smaller than 1.5 acres. But it does not apply to lots that were in existence prior to when the 1.5 acre minimum was adopted. Clearly, such undersized lots are grandfathered. If that were not the case, there would be hundreds of RC 5 lots in Baltimore County (including the Protestants) that are illegal because they were created prior to the adoption of BCZR § 1A04.3.B.1.a. The lot at issue was created in 1926 and predates the date of the first zoning regulations that were adopted in Baltimore County in 1945. In summary, no variance or zoning approval is needed here, other than perhaps confirmation that the subject property is grandfathered and thus compliant with the BCZR. Pursuant to BCZR § 1A04.3.B.4, the Property at Issue Qualifies for an Exception from the Setback and Lot Coverage Regulations and Variance Relief is Not Required.

The provisions of the BCZR for which the Petitioners seek relief primarily relate to setbacks for the proposed dwelling. As noted above, they are: (1) to allow an open projection deck (in the rear yard/street) with a setback of 13 ft. in lieu of the required 37.5 ft.; (2) to allow a replacement dwelling with a rear yard setback of 33 ft. in lieu of the required 75 feet to the centerline of a road; (3) a variance to allow 9 foot setbacks on both sides in lieu of the required 50 ft. from any lot line; and (4) to allow a building coverage of 20% in lieu of the maximum required 15%.

Although these variances were requested, Petitioner avers that they are not necessary. Specifically, BCZR § 1A04.3.B.4 provides for an exception for certain properties in the RC 5 zone from these setback standards and lot coverage requirements. It states:

> Exceptions for certain record lots. Any existing lot or parcel of land with boundaries duly recorded among the land records of Baltimore County with the approval of the Baltimore County Department of Planning on or before the effective date of these zoning regulations and not part of an approved subdivision that cannot meet the minimum standards as provided within the zone may be approved for residential development in accordance with the standards prescribed in force at the time of the lot recordation.

Admittedly, the language of this section is convoluted. However, it is apparent that the following elements must be established under BCZR § 1A04.3.B.4 in order for a lot to qualify for this exception: (1) A existing lot must be recorded in the Baltimore County Land Records prior to the effective date of the governing zoning regulations; (2) the lot must not be part of an approved subdivision; (3) the lot must not able to be developed in conformance with the minimum standards provided within the zone; and (4) if elements (1)-(3) are satisfied, then residential development may be permitted on the lot in accordance with the standards prescribed in force at the time of the lot recordation.

Here, the existing lot was recorded in the Baltimore County Land Records on May 28, 1926, well before the effective date of the RC 5 zoning classification, which was enacted in 1975. See County Council Bill 98-1975. Thus, element (1) has been satisfied. Similarly, element (2) has also been met because in 1926 Baltimore County had yet to enact a subdivision process. In fact, zoning regulations were not introduced in Baltimore County until 1945; therefore, the property at issue was not part of an approved land recorded subdivision. The Seneca Park community, as shown on the plat, was never approved by Baltimore County as no Department of Planning existed when the plat was recorded. Addressing element (3), considering the 50 ft. width of the Property, the limited and uneven depth of the Property, the Property's proximity to the shoreline and location within the Chesapeake Bay Critical Area and the regulations which govern thereto, it is indisputable that the property at issue would not be developable in conformance with the RC 5 standards. Thus, the subject property satisfies the three elements required for the exception to apply.

BCZR § 1A04.3.B.4 further states that if the first three criteria are established (presumably through a public hearing before the ALJ or, on appeal, the Board) then the property "may be approved for residential development in accordance with the standards prescribed in force at the time of the lot recordation." In this case, there were no regulations in place in 1926 and thus no standards prescribed in force at the time of the lot recordation. At first blush, one may question this interpretation; fearing that such a reading of the regulation would allow a property owner who qualified under this section to develop his/her property without limitation. However, the RC 5 regulations set forth certain "performance standards" as set out in BCZR § 1A04.4. These performance standards contained in a separate subtitle within the RC 5 regulations and thus are not subject to waiver via the exception in BCZR § 1A04.3.B.4. In this

circumstance, the performance standards are in place to monitor proposed development and ensure that it is appropriate in the absence of other regulation. Thus, the Petitioners cannot redevelop the property in any manner they choose, but must satisfy the performance standards in BCZR § 1A04.4. These would have been applied in order to ensure development appropriate and consistent with the neighborhood. In this case, the DOP (within their ZAC comment) supported Petitioners' requested relief, stating that "the proposal was consistent with the RC 5 zone performance standards." In sum, an exception to the setback and lot coverage requirements is proper under BCZR § 1A04.3.B.4 none of the requested variances are required. Moreover, redevelopment of the property is appropriate as it is consistent with the performance standards in the RC 5 zone.

2. In the alternative to the exception in BCZR § 1A04.3.B.4, the proposed dwelling should be permitted through Special Hearing Relief Pursuant to BCZR § 1A04.3.B.1.b.1

As an alternative theory to Argument 2 above, the replacement dwelling should be allowed via special hearing relief pursuant to BCZR § 1A04.3.B.1.b.1. This section states:

> The owner of a single lot of record that is not a subdivision and that is in existence prior to September 2, 2003, but does not meet the minimum acreage requirement, or does not meet the setback requirement of Paragraph 2, may apply for a special hearing under Article 5 to alter the minimum lot size requirement. However, the provisions of Section 1A04.4 may not be varied.

Unfortunately, similar to BCZR § 1A04.3.B.4, the above regulation is also not written with clarity. However, as one reads the regulation in its entirety and in context, the above interpretation is gleaned. First, the Property must be a single lot of record that was in existence prior to September 2, 2003. Second, the lot is not a subdivision[3]. Third, the lot meets neither the

[3] The section states, quite literally, "a single lot of record that is not a subdivision". Under the definition of "subdivision" in BCZR § 101, a single lot could never be a subdivision. It is suggested that the text inadvertently deleted the word "in" so that the section should read, "a

minimum acreage requirement nor setback requirements. Accordingly, considering that each of the required elements is satisfied, the property owner may apply for a special hearing to alter these requirements. Moreover, the performance standards, BCZR § 1A04.4, may not be waived.

As this property qualifies, the next question becomes what is the standard to be applied by the Board in evaluating whether the special hearing should be approved. Based upon the precise and clear standards set out in the BCZR, petitions for variance are to be adjudged pursuant to § 307 (uniqueness and practical difficulty) and special exceptions adjudged pursuant to § 502.1 (detrimental to the health, safety and welfare of the locale). Special hearings have been likened to a declaratory judgment. See *Antwerpen v. Baltimore County*, 163 Md. App. 194, 209 (2005). Within the regulation which authorizes the filing of a special hearing (BCZR § 500.7), there is no standard identified which delineates the circumstances when special hearing relief should be granted. Historically, the Administrative practice in Baltimore County has been to determine whether the proposed special hearing would be compatible with the community and generally consistent with the spirit and intent of the regulations.

Recently, the Board considered a similar case that presented the similar issues as are presented here. See Petitioner's Appendix 1 - Baird Case No. 2014-0283-SPH. In the Baird case, the property under consideration was zoned RC 5 and located on the waterfront and within the Critical Area. A request has been made to construct a replacement dwelling, closer to the water, after the previous dwelling was destroyed by Hurricane Isabel. In determining whether to grant 'special hearing' relief in Baird, pursuant to BCZR § 1A04.3.B.1.b.1, ALJ Beverungen explained the governing standard as follows:

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single lot of record that is not in a subdivision." Although the property is within the Seneca Beach plat, that community was never part of any approved subdivision. An alternative meaning might be that the property is not proposed for subdivision. Whichever the Board's interpretation of this language, the property is a "single lot of record that is not a subdivision."

> The alterations referenced in BCZR § 1A04.3.B.1.b are not variances per se, and therefore the Petitioners do not need to satisfy BCZR § 307, and cases interpreting that provision. It is unclear exactly what must be shown to obtain 'special hearing' relief, although prior practice seems to suggest that Petitioners must make a showing similar to that required for a special exception; that the proposed use would not adversely impact the health, safety and welfare of the community. Petitioner's Appendix 1, pg. 2.

Applying this standard, ALJ Beverungen stated in Baird that "[w]ith a lot width of approximately 112 feet (541 feet deep), there is no way that a dwelling could be constructed if the 50 feet side yard setbacks were imposed." Petitioner's Appendix 1, pg. 2. Additionally, ALJ Beverungen established that "[t]he concern [in Baird] is that Petitioners propose to move the home closer to the waterfront. But the law does not guarantee one's right to an unobstructed view of the water." Petitioner's Appendix 1, pg. 2 (citing *Chesley v. City of Annapolis,* 176 Md. App. 413 (2007). Lastly, in view of the fact that the RC 5 Regulations require that buildings be arranged and oriented to "complement those in the surrounding vicinity" under BCZR §1A04.4.D.1.e, ALJ Beverungen approved the construction of the replacement dwelling in a location that was consistent with the neighborhood.

The ALJ's decision in Baird was appealed to the Board. While a written decision in Baird has yet to be issued by the Board, at the Board's deliberations on January 22, 2015, the Board made the following determinations: (1) That relief should be granted because otherwise the lot would not be buildable; (2) a neighbor is not entitled to a water view across another's property; and (3) the standard for evaluating a Special Hearing is generally whether the request is consistent with the intent of the Zoning Regulations. See Petitioner's Appendix 2 – Baird Deliberation Minutes.

Turning to the case at bar, like in Baird, the requested relief does not adversely impact the health, safety and welfare of the community, and it is consistent with the intent of the R.C. 5 regulations. In fact, as was emphasized by both ALJ Beverungen and the Board when addressing

the construction of replacement dwellings on waterfront impacted by Hurricane Isabel, despite being zoned for residential use, a replacement dwelling could not be constructed on the Property at issue unless relief is granted. Also, Baird presented the same objection raised by the neighbors in the present dispute; namely, fear that the replacement dwelling will cause interference with the view of the water. Considering that it is well established that without a view easement there is no right to a water view across another's property, the proposed construction in this instance certainly will not negatively impact the neighborhood in this respect.

Moreover, the proposed construction under consideration is arranged and oriented to "complement those [dwellings] in the surrounding vicinity." BCZR § 1A04.4.D.1.e. This is particularly true considering that many dwellings in the neighborhood are built closer to the water than the proposed +/- 87 sq. ft. in this case. Additionally, the proposed dwelling would also be surrounded by significant structures, with the adjoining properties at 3503 and 3507 Beach Road (the addresses of the Protestants) each maintaining large sheds on the water side of the property, and with 3501 and 3503 Beach Road each fully (arguably over) developed. Accordingly, the proposed construction is consistent with the existing development in the neighborhood.

Indeed, the case here is the same that has been repeated throughout Baltimore County's waterfront communities. There are older neighborhoods, comprised of lots which were platted years before the adoption of the BCZR. These lots, under the current regulations, are undersized and the setbacks cannot be maintained. Originally, many of the lots were improved with summer cottages (shore shacks). These dwellings are old, in need of replacement and/or have been damaged by weather (Hurricane Isabel). Replacing with a modern dwelling, which meets the flood plain and environmental regulations (as is the case here) is both warranted and appropriate.

Furthering this analysis, the County agencies review of this request indicates that the proposal is in compliance with the goals of the governing regulations. As noted, EPS evaluated the subject petition for compliance with the goals of Critical Area Law, stating that "the relief requested will be consistent with established land-use policies for development in the Critical Area." DPR stated that Petitioners are required to satisfy the County's flood protection laws and does not oppose Petitioner's request. The building is proposed to be built to the elevation required. The DOP supported Petitioner's requested relief, finding that "the proposal was consistent with the RC 5 zone performance standards." If the proposal was deemed noncompliant with any Regulations, then it would be the duty of the agency who administers those Regulations to recommend denial of the instant project. No such denial was recommended in this case.

In addition, a question is also raised by the language of BCZR § 1A04.3.B.1.b.1, as to the specific type of relief that may be granted under this provision. Again, reviewing ALJ Beverungen's decision in Baird for guidance, he case explained that "[d]espite the ambiguous nature of this regulation, prior administrative practice and interpretation have permitted special hearing relief for *both* lot size and setbacks." Baird ALJ Opinion, pg. 3 (emphasis added). The significance of this provision is that if an exception is granted pursuant to BCZR § 1A04.3.B.1.b.1, then variances will not be required from the following setback requests: (1) to allow an open projection deck (in the rear yard) with a setback of 13 ft. in lieu of the required 37.5 ft.; and (2) to allow a replacement dwelling with a rear yard setback of 33 ft. in lieu of the required 75 ft. from the centerline of the road and (3) 9 foot side yard setbacks (on both sides) in lieu of the 50 ft. required from any lot line.

3. The zoning relief requested herein does not require compliance with the standards for variance relief articulated in BCZR 307.1

In Baltimore County, zoning variances are analyzed under BCZR § 307.1 and the case law interpreting that provision. Significantly, to obtain a zoning variance in Baltimore County requires a two-pronged analysis showing that:

> (1) The property is unique; and
> (2) if variance relief is denied, petitioner will experience a practical difficulty or unreasonable hardship. BCZR § 307.1; *Cromwell v. Ward,* 102 Md. App. 691, 694-95 (1995).

Nonetheless, the uniqueness and practical difficulty requirements are only applicable when imposed by Statute, i.e., when BCZR § 307.1 governs. Notably, a County legislature is free to modify or eliminate the typical stringent variance requirements delineated within BCZR § 307.1. For example, in *Belvoir Farms v. North*, 355 Md. 259, n.4 (1999), the Anne Arundel County Critical Area variance laws were amended, with the Court of Appeals explaining the amendment by stating, "[a]pparently, the requirement that property be unique also was modified, if not eliminated, from critical area variances." More particularly, the traditional uniqueness standard was replaced with the following language: "[D]ue to the features of a site or other circumstances other than financial considerations, strict implementation of the County's critical area program would result in an unwarranted hardship." *Id.* Furthermore, in reliance on the Express Power's Act, the Court in *Belvoir* provided the following telling statement addressing this issue: "Petitioner essentially argues that this clause authorizes Anne Arundel County to adopt any threshold standard for granting a variance, including a practical difficulties standard in the critical area. We agree." *Id.* at 272-73.

Additionally, the Baltimore County case of *Mueller v. People's Counsel,* 177 Md. App. 43 (2007), provides further support for the proposition that a County may determine whether the

uniqueness and practical difficulty requirements will apply. In *Mueller,* the dispute centered around a Baltimore County variance request where relief was sought to permit the construction of a dwelling on an undersized lot. *Id.* at 49. However, instead of proceeding under BCZR § 307.1, the variance requested in *Mueller* was filed pursuant to BCZR § 304.1. *Id.* BCZR §304.1 sets forth standards which govern requests to develop undersized lots, and significantly, unlike BCZR §307.1, an application of the standards set forth within BCZR §304.1 does not require a finding of either uniqueness or practical difficulty. *Id.* at 87. However, People's Counsel argued in *Mueller* that irrespective of the requirements set forth within BCZR §304.1, the variance standards articulated in *Cromwell v. Ward* and BCZR §307.1 must be satisfied. *Id.* at 78. However, agreeing with the Petitioners, the Mueller court determined that BCZR §307.1 was not applicable; rather, the court found that BCZR §304.1 controlled because it is the more specific statute. *Id.* at 84-86. In summarizing its decision, the *Mueller* court stated that "[a]lthough BCZR § 307 contains a uniqueness requirement, BCZR § 304 does not contain such a requirement, and...[t]herefore, we need not address the element of uniqueness..." *Id.* at 102 n.22.

Turning to the present case, under the authority established in both *Belvoir* and *Mueller* (among others), the County Council can clearly alter the general requirements of uniqueness and practical difficulty where it deems appropriate. This is exactly what the Council did in the present case when it enacted both BCZR § 1A04.3.B.4 and BCZR § 1A04.3.B.1.b.1, intentionally excluding the stringent parameters provided within BCZR § 307.1. Therefore, relief can be granted under both BCZR § 1A04.3.B.4 and BCZR § 1A04.3.B.1.b.1 without a finding of either uniqueness or practical difficulty.

4. Assuming arguendo that the Board finds that a variance is required, the evidence presented herein supports the grant of such variance(s) are required.

Assuming arguendo that the standard in BCZR § 307 applies, the Board should conclude that this requirement has been met in this case, As noted by ALJ Beverungen when the case was considered by him, t the lot is narrow, deep, and was created over 80 years ago; thus concluding that "the Property is arguably unique." Long ALJ Opinion, pg. 2. Furthermore, Judge Beverungen found that "if the BCZR was strictly interpreted, the Petitioners would suffer a practical difficulty, given they would be unable to construct a replacement dwelling on site." *Id.*

At the Board's hearing, Ms. Moskunas testified that both the size and shape of the Property is unique. More particularly, she emphasized the impact of the shoreline on the depth of the Property, which unlike other lots in the neighborhood, creates a western property boundary of +/- 180 feet and an eastern property boundary of +/- 170 feet. Similarly, Ms. Moskunas testified that at 9,750 square feet in area, the size of the subject property is also different from other properties in the vicinity. No other property has these precise dimensions, even though many of lots laid out in the original plat were fifty feet wide. Additionally, the Property was also impacted particularly severely by Hurricane Isabel, causing total destruction of the previously existing dwelling, which has caused the Property to be one of the few vacant lots in the neighborhood.

Considering these facts in conjunction with application of the Maryland Critical Area Law, renders the Property at issue unique. More particularly, the Maryland Critical Area Laws and Baltimore County's Buffer Management Regulations require structures to be setback from the water and closer to the road; conversely, the RC 5 zoning regulations require structures to be setback at least 75 feet from the center line of any road. Therefore, because the zoning regulations and environmental regulations at issue are intended to serve competing goals, combined with the unique shape and size of the property, the lack of feasible building area is

exacerbated by the combination of these factors. Moreover, in consideration of the unique circumstances, the DOP and Ms. Moskunas both concluded that the proposed dwelling is consistent with the neighborhood as well as the RC 5 zoning regulations. Ms. Moskunas also testified that the Petitioners in this case will suffer practical difficulty if their request to construct a replacement dwelling is denied, because there is no location on the property where a residence could be constructed in conformance with the BCZR. Further, Ms. Moskunas testified that considering the surrounding neighborhood and site constraints at issue, the construction of the proposed dwelling would be consistent with the RC 5 zoning regulations and would not cause injury to the public health, safety, or general welfare.

Finally, it is also of note that other properties in the neighborhood have been granted variances (including, as noted above, the immediate neighboring property owned by Mr. Kauders (Case 05-286-A). The zoning authorities of Baltimore County have thus determined that notwithstanding their creation as lots of record established by the Seneca Park Beach plat; that individual lots therein are and can be considered unique for the purpose of considering a variance. (See e.g. Cases 08-305-A, 08-570-A, 07-173-A and 08-224-A, attached herein as Appendix 3A-3D).

Therefore, assuming that a variance is required and that BCZR § 307 is applicable, the Board should permit the proposed construction of a replacement dwelling on 3505 Beach Road.

5. Miscellaneous Issues to Consider

A. Mr. Kiesling's Failure to Request a Variance on his Own Property

At the hearing before the Board, Mr. Kiesling testified that he purchased the property located at 3503 Beach Road in 2001. Mr. Kiesling further testified that thereafter, Hurricane Isabel struck in 2003, rendering the home that he purchased unlivable. After Hurricane Isabel,

Mr. Kiesling then constructed a replacement dwelling in 2006, 5 feet away from the property line at 3505 Beach Road, *without requesting a variance.* This construction is outside of the two year time period in which Mr. Kiesling would have been permitted to construct a replacement dwelling under BCZR § 305.1 and BCZR § 104.2. These sections permit the owner of a nonconforming property/dwelling to reconstruct the dwelling within two years of the casualty which destroyed/damaged the same.[4]Therefore, under the BCZR, Mr. Kiesling was required to request variance relief in order to rebuild his home in 2006; he did not do so.

Therefore, this Board should not punish the Petitioners for making every effort possible to follow the correct process and to abide by the laws of Baltimore County. To do so would be counter intuitive, as it would reward those like Mr. Kiesling who have chosen to ignore the BZCR, while at the same time penalizing those citizens who go through the time, risk, and expense of obtaining the type of zoning relief requested in this case.

B. Protestants Seek Inconsistent, Hypocritical Application of Zoning Regulations

The objections of each of the Protestants in this case are inconsistent with the longstanding application of the Zoning Regulations to properties within this community. First, while Mr. Kauders main complaint concerns the alleged impact that this proposed dwelling will have on his family's view of the water, it should be noted that the proposed construction on 3505 Beach Road will pose no greater view impact than the presently existing development on the Kauders' property. Specifically, unlike the proposed construction at issue, the Kauders have built a large, two-level deck that is attached to the back of their dwelling. More importantly, on the waterside of the Kauders property, there is a shed that is significant in scope. The shed is located

[4]Unfortunately for the Petitioners, the time limits under these sections would appear to prohibit them from rebuilding, notwithstanding ALJ Beverungen's analysis under these sections and that Baltimore County apparently did not apply them to Mr. Kiesling.

closer to the water than the proposed dwelling at issue and undoubtedly interferes with the neighboring property owner's view of the water.

Additionally, Mr. Kiesling testified that the requested relief should be denied because there is not enough room to park on the street. However, while Mr. Kiesling has a garage on his property, he does not park cars there. Instead, he parks all four of his vehicles on the street. Complaining about the lack of parking area on the adjacent street when parking four cars thereon is hypocritical. Comparatively, the proposed dwelling will not park any cars on the street; the construction will provide room for two cars to park within a garage and the Long's only own two vehicles. Additionally, like the Kauders, the Kiesling property maintains a two-level deck attached to the back of their dwelling. This deck extends closer to the water than the proposed dwelling. Moreover, when testifying before the Board, Mr. Kiesling also contended that development on the site will cause flooding and excess runoff onto his property. In support of this contention, Mr. Kiesling submitted pictures of the Property submerged in water, which he testified were taken after a storm. However, this argument is misleading and not supported by the evidence. The reason that water pools on the Property at issue after storms is because there is no bulkhead on the property at the present time. A bulkhead will be constructed in conjunction with the proposed dwelling, and the construction of a bulkhead will prevent the influx of water/flooding that otherwise comes after a storm.

The Protestants' objections lack merit considering the circumstances under which they are posed. Similarly, there has been a longstanding policy of permitting residential development within this waterfront community. Denying Petitioners' request in this instance would be inconsistent with the prior application of the BCZR, and would not be in conformance with the surrounding neighborhood.

IV. CONCLUSION

For the foregoing reasons, this Board should grant Petitioners' requested relief, and allow the construction of the proposed replacement dwelling on the Property.

Respectfully Submitted,

LAWRENCE E. SCHMIDT
CHRISTOPHER W. COREY
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
(410) 821-0070
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 6th day of February, 2015, a copy of the foregoing Memorandum was mailed, postage pre-paid, to:

Edward C. Covahey, Jr., Esquire
Bruce Edward Covahey, Esquire
Covahey, Boozer, Devan & Dore, P.A.
614 Bosley Avenue
Towson, MD 21204

LAWRENCE E. SCHMIDT
CHRISTOPHER W. COREY

IN RE: **PETITION FOR SPECIAL HEARING**	*	BEFORE THE
(4009 Briar Point Road)		
15th Election District	*	OFFICE OF
6th Councilmanic District		
Thomas & Victoria Baird	*	ADMINISTRATIVE HEARINGS
Petitioners		
	*	FOR BALTIMORE COUNTY
	*	**Case No. 2014-0283-SPH**

* * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of the legal owners. The Petition was filed pursuant to §1A04.3.B.1.b.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed replacement dwelling with side yard setbacks of 18 ft. and an open projection side setback of 12 ft. in lieu of the required 50 ft. and 37.5 ft., respectively.

Appearing at the public hearing in support of the requests was Thomas & Victoria Baird. Bernadette Moskunas with Site Rite Surveying, Inc. appeared with the Petitioners. The neighbors on either side of the subject property attended the hearing and objected to the requests. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were submitted by the Department of Planning (DOP), the Bureau of Development Plans Review (DPR), and the Department of Environmental Protection and Sustainability (DEPS).

Following the hearing, Ms. Moskunas notified the OAH that the Zoning Office failed to include in the Petition (which it drafted, according to Ms. Moskunas) the minimum lot size (i.e., 1.078 acres in lieu of the required 1.5 acres) as an aspect of special hearing relief being sought. Even so, the hearing notice substantially complied with the BCZR, and alerted the community

Appendix 1

that Petitioners sought to construct a new dwelling on the lot. Accordingly, the Petition will be amended to reflect that relief is also sought regarding the lot size.

The subject property is 1.078 acres and is zoned RC 5. The property is improved with a single family dwelling, and the Petitioners stated that it suffered storm damage in Hurricane Isabel, and has been vacant for nearly 10 years. They propose to raze the existing dwelling and construct a new single family dwelling. The new dwelling would be positioned much closer to the waterfront (according to the Plan, approximately 113' from the shore line). The adjoining neighbors (Wade Henninger and Frank Orzolek) objected to the proposal, fearing that the placement of the dwelling at the location proposed would block their view of the Chesapeake Bay.

The procedure for altering the minimum lot size and setbacks in an RC 5 zone is somewhat confusing. The Regulations provide that if an owner "does not meet the minimum acreage requirement, or does not meet the setback requirement..." special hearing relief can be obtained "to alter the minimum lot size requirement." B.C.Z.R. §1A04.3.B.1.b. Despite the ambiguous nature of this regulation, prior administrative practice and interpretation have permitted special hearing relief for both lot size and setbacks.

The alterations referenced in B.C.Z.R. §1A04.3.B.1.b. are not "variances" per se, and therefore the Petitioners do not need to satisfy B.C.Z.R. § 307, and cases interpreting that provision. It is unclear exactly what must be shown to obtain "special hearing" relief, although prior practice seems to suggest that Petitioners must make a showing similar to that required for a special exception; i.e., that the proposed use would not adversely impact the health, safety and welfare of the community.

In that regard, it seems clear (with one exception) that the Petitioners are entitled to special hearing relief. The property is improved with a dwelling that does not satisfy the current R.C. 5 regulations as to lot size or setbacks. Indeed, with a lot width of approximately 112 ft., there is no way that a dwelling could be constructed if the 50 ft. side yard setbacks were imposed. Petitioners propose to construct a new dwelling that would in fact be no more "nonconforming" than the existing home, and their lot is the same or similarly sized to those in the neighborhood.

The concern is that Petitioners propose to move the home closer to the waterfront. As shown on the site plan, the proposed location is much closer to the waterfront than adjoining homes. The neighbors complain that their view of the bay would be obstructed, and I am sympathetic to that concern. But the law does not guarantee one's right to an unobstructed view of the water, unless the owner has obtained specific rights by way of a "view easement" or similar grant. Chesley v. City of Annapolis, 176 Md. App. 413 (2007). The R.C. 5 regulations do however require that buildings be arranged and oriented to "complement those in the surrounding vicinity." B.C.Z.R. §1A04.4.D.1.e. In my opinion, positioning the new home no closer than 150 ft. to the existing wooden bulkhead shown on the plan would help to accomplish the goals of the R.C.5 zone site planning regulations.

THEREFORE, IT IS ORDERED this **28th** day of August 2014, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R") to permit a lot size of 1.078 acres in lieu of the required 1.5 acres, and a proposed replacement dwelling with side yard setbacks of 18 ft. and an open projection side setback of 12 ft. in lieu of the required 50 ft. and 37.5 ft., respectively, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- Petitioners must comply with the ZAC comments of DEPS, DOP and DPR which are incorporated herein and attached hereto.
- Any dwelling constructed on the lot must be no closer than 150 ft. to the existing wooden bulkhead.

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/sln

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: 8/19/14

SUBJECT: DEPS Comment for Zoning Item # 2014-0283-SPH
Address 4009 Briar Point Road
(Baird Property)

Zoning Advisory Committee Meeting of June 23, 2014.

The subject property is located within the Chesapeake Bay Critical Area. According to BCZR 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 (EPS) has provided written recommendations describing how the proposed request would:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

The subject property is located within a Limited Development Area (LDA), and is subject to Critical Area lot coverage requirements. Critical Area lot coverage differs from BCZR lot coverage and is defined in Natural Resources Article §8-1802(a)(17), as follows:

(17) (i) "Lot coverage" means that percentage of total lot or parcel that is:

1. Occupied by a structure, parking area, driveway, walkway, or roadway; or
2. Covered with gravel, stone, shell impermeable decking, a paver, permeable pavement, or any manmade material

(ii) "Lot coverage" includes the ground area covered or occupied by a stairway or impermeable deck.

(iii) "Lot coverage" does not include:

1. A fence or wall that is less than 1 foot in width that has not been constructed with a footer;
2. A walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier;

3. A wood mulch pathway; or
4. A deck with gaps to allow the water to pass freely.

In order to minimize impacts on water quality, the applicant should comply with the LDA lot coverage requirement, which, for a property this size, is 15%.. The property is also located within a Buffer Management Area (BMA), which further restricts impervious surfaces and structures within 100 feet landward of mean high tide (100 foot buffer). According to the plan submitted for this review, the proposed lot coverage is below the 15% limit, however, a proposed driveway is not shown on the plan and the distance from the road to the proposed dwelling is approximately 280 feet. Impacts to the Critical Area Buffer are proposed, therefore, minimization and/or mitigation must be addressed. By allowing the items requested by the petitioner, impacts on water quality will be minimized by addressing any LDA and BMA requirements.

2. Conserve fish, wildlife, and plant habitat; and

The current development proposal for the property will be reviewed for application of the LDA and BMA requirements, which will improve buffer functions, and conserve fish, wildlife and plant habitat in Galloway Creek.

3. 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.

The side and front yard setbacks and lot coverage areas requested will be consistent with established land use policies, provided that the applicants meet any LDA and BMA requirements applicable to the proposal. The request, if granted, will avoid environmental impacts.

Reviewer: *Thomas Panzarella; Environmental Impact Review*

JB 8-21-14
11 AM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: August 4, 2014

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 4009 Briar Point Road

INFORMATION:

Item Number: 14-283

Petitioner: Thomas and Victoria Baird

Zoning: RC 5

Requested Action: Special Hearing

RECEIVED
AUG 06 2014
OFFICE OF ADMINISTRATIVE HEARINGS

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The petitioner is requesting a special hearing, per section 1A04.3.B.b (Area regulations/Exceptions to minimum lot size, RC 5 zone) to permit a proposed replacement dwelling with a side yard setback of 18 feet and an open projection side set back of 12 feet in lieu of the required 50 feet and 37.5 feet respectively.
The lot at 4009 Briar Point Road is 110 feet wide and 541 feet deep. The existing dwelling will be razed and the proposed replacement dwelling will be moved approximately 125 feet closer to the water.

The Department of Planning does not oppose the requests. However, 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. 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.
2. 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.
3. 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.

Furthermore, there is some concern regarding the Critical Area requirements. This department defers to DEPS regarding this matter.

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: July 08, 2014

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

SUBJECT: Zoning Advisory Committee Meeting
For July 07, 2014
Item No. 2014-0283

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

Prior to building permit application, the petitioner must contact the office of the Director of Public Works to determine the flood protection elevation so that the lowest floor elevation can be set.

* * * * *

DAK:CEN
cc:file

ZAC-ITEM NO 14-0283-07072014.doc

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Thomas and Victoria Baird 14-283-SPH

DATE: January 22, 2015

BOARD/PANEL: Maureen E. Murphy, Chairman
Benfred B. Alston
Richard A. Wisner

RECORDED BY: Tammy McDiarmid/Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Special Hearing pursuant to Section 500.7 of the BCZR to permit a lot size of 1.078 acres in lieu of the required 1.5 acres, and proposed replacement dwelling with side yard setbacks of 18 ft. and an open projection side setback of 12 ft. in lieu of the required 50 ft. and 37.5 ft., respectively.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board reviewed the history of this matter. The subject property is located with the RC 5 Zone and is required to meet certain setbacks. The applicants wish to raze the house currently located on the property and construct a larger home closer to the water. The Board heard testimony from the property owner and their expert witness, Bernadette Moskunas.
- The neighbors on either side of the subject property do not object to the requested side yard setbacks, but object to the placement of the home as it will obstruct their water views.
- Although the Board is sympathetic to the concerns of the neighbors, owners of waterfront property have no entitlement to water views. The issue of water views is not one to be determined by the Board.
- The Board noted that the lots in the area were created around the 1920's and need some type of exception to build. If the 50' side yard setbacks were observed, no houses would be able to be built as there would not be enough remaining property. The Board also stated that the original placement of the homes back by the street was due to private well and septic systems on the properties, but as public water and sewer is now available there is no need for the homes to be located back by the road.
- The Board discussed the issue of Performance Standards in accordance with Section 1A04.4 and determined that it is up to the Department of Planning to review compliance with the Performance Standards and not the Board.
- The Board discussed that this case does not involve a special exception or variance request, but a special hearing determination.

DECISION BY BOARD MEMBERS:

The Board determined that the issues before the Board were that of lot size, and setbacks, and determined that the Applicants meet the standard.

Appendix 2

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the requested relief.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

Tammy McDiarmid

IN RE: PETITION FOR VARIANCE SW side of Seneca Park Road, 300 feet NW of Beach Road 15th Election District 6th Councilmanic District **(860 Seneca Park Drive)** Marcos T. and Elizabeth Doxanas *Petitioners*	*	BEFORE THE DEPUTY ZONING COMMISSIONER FOR BALTIMORE COUNTY **Case No. 08-305-A**

* * * * * * * * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owners of the subject property, Marcos T. and Elizabeth Doxanas. Petitioners are requesting variance relief from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a height of 20 feet for an accessory structure (carport) in lieu of the maximum allowable height of 15 feet. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the variance request was Petitioner Elizabeth Doxanas and her attorney, Benjamin Bronstein, Esquire. Also appearing in support of the requested relief were Baird Bailey, Petitioner's contractor, and Thomas A. Church, with Development Engineering Consultants, Inc., the professional engineer who prepared the site plan. The case also garnered some interest from several nearby neighbors who appeared in opposition to the requested relief. Their names and addresses are listed on the "Citizen's Sign-In Sheet" that was distributed prior to the hearing and is contained in the case file.

Testimony and evidence offered revealed that the subject property is a rectangular-shaped waterfront property containing approximately 24,725 square feet or .568 acre, more or less, and zoned D.R.3.5. The property consists of Lots 38 and 39 and is located on the southwest side of

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Date 4-14-08
By PM

Appendix 3A

Seneca Park Road in the Middle River area of Baltimore County. The property is improved with an existing two-story dwelling located near the waterfront and a one-story garage located closer to Seneca Park Road. The original dwelling was built in the 1930's on Lot 38. Petitioners purchased the original property in 1988 and refurbished the dwelling in 1989 and utilized the dwelling during the summer beginning in 1990. Following Petitioners' purchase of adjacent Lot 39 and as a consequence of Hurricane Isabel flooding the first floor in 2003, Petitioners began to again rehabilitate the dwelling. This has included lifting the dwelling to comport with flood protection elevation requirements and also constructing an addition to the dwelling. The dwelling is currently under construction, as shown in the photographs which were marked and accepted into evidence as Petitioners' Exhibits 2 and 2A. During this construction phase, Petitioners desire to reconfigure the landscaping and also construct a one-story carport near the dwelling -- between the dwelling and the existing garage -- on the north side of the property. In order to allow the roofline of the proposed carport to be in line with the pitch of the dwelling, as well as similar dwellings in the neighborhood, Petitioners request variance relief in order to permit a height of 20 feet in lieu of the maximum allowed 15 feet. As noted by Mr. Church, Petitioners' engineering consultant, there are no other variance requests and Petitioners meet all property line setback requirements for the proposed structure.

In support of the height variance request, Petitioners offered and Mr. Church was accepted as an expert in site planning, land use, and interpretation of the B.C.Z.R. During his testimony, Mr. Church introduced a number of photographs of properties in the area. Marked and accepted into evidence as Petitioners' Exhibit 3 is a photograph of existing homes near Petitioners' property which shows the height of these homes and the steeper rooflines of this new construction. Marked and accepted into evidence as Petitioners' Exhibit 4 are two photographs showing accessory

structures on neighboring properties on Seneca Park Road. In addition, the photographs which were marked and accepted into evidence as Petitioners' Exhibits 5, 6, and 7 show the contrast in rooflines between so-called "flat roofs" that were characteristic of waterfront homes constructed in the 1930's, 40's, and 50's versus the newer construction that is characterized by higher elevations as well as higher and steeper rooflines. Mr. Church then submitted a Schematic Master Plan which was marked and accepted into evidence as Petitioners' Exhibit 8. It shows the proposed landscape and hardscape features of the property upon completion of construction. It shows extensive trees and shrubs on the property, especially around the garage and proposed carport, which is anticipated will provide some screening of the carport and lessen its impact on the adjacent property owner to the north.

Although the carport will be located close to the property line, Mr. Church indicated there is virtually no other location for it based on the positioning of other improvements as shown on the Schematic Master Plan. Mr. Church also pointed out that no variance is needed or requested because the proposed carport meets the required setback provisions of the B.C.Z.R. It is the request for a height of 20 feet in lieu of 15 feet that requires variance relief. In support of the height variance, Mr. Church indicated it is necessary to make the roofline of the carport in line with the roofline of the existing dwelling, as well as the rooflines of other newer dwellings and accessory structures in the immediate area. In short, Mr. Church indicated the steeper roof pitch and the resultant increase in height will make the carport more compatible with other nearby homes and accessory structures.

Testifying in opposition to the requested relief, several neighbors collectively expressed concern over both the positioning of the proposed carport so close to the property line, and the potential impact of the height of the carport on neighboring properties. Marked and accepted into

evidence as Protestants' Exhibits 1, 2, and 3 were photographs depicting the carport under construction, and illustrating the neighbors concern of the location of the carport very near the property line.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case within the case file. The comment received from the Office of Planning dated February 19, 2008 does not opposed Petitioners' variance request, but recommends as conditions that the accessory structure not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, and not be used for commercial purposes. Comments received from the Department of Environmental Protection and Resource Management dated March 6, 2008 indicate that the property must comply with the Chesapeake Bay Critical Area Regulations, that the property is within the Limited Development Area and Buffer Management Area, and that impervious surface limits are 5,445 square feet in addition to a 15% afforestation requirement. Comments received from the Bureau of Development Plans Review dated February 1, 2008 indicate that the first floor or basement must be at least one foot above the flood plain elevation in all construction, the building should be designed and adequately anchored to prevent flotation or collapse and constructed of materials resistant to flood damage. Flood-resistant construction should be in accordance with the Baltimore County Building Code which adopts the International Building Code.

Considering all the testimony and evidence presented, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. The property is located just at the edge of where zoning changes from D.R.3.5 to R.C.2 to the south. In addition, as Mr. Church explained, the neighborhood is in somewhat of a transition between the older existing homes with "flatter" rooflines and new construction with

homes that are higher due to flood protection elevations and "steeper" rooflines. As such, I find that the imposition of zoning on this property disproportionably impacts the subject property as compared to others in the zoning district.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Finally, I find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. Although I share the neighbors' concern over the location of the proposed carport so close to the property line, in reviewing Petitioners' Schematic Master Plan for the property, it appears that the new construction taking place on the dwelling, the proposed carport, and the existing garage will be tied together tastefully with landscaping and hardscape features that will enhance the overall appearance of the property and lessen the impact of the carport.

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

THEREFORE, IT IS ORDERED this 14th day of April, 2008 by this Deputy Zoning Commissioner, that Petitioners' variance request from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a height of 20 feet for an accessory structure (carport) in lieu of the maximum allowable height of 15 feet be and is hereby GRANTED, subject to the following which are conditions precedent to the granting of the relief:

1. Petitioners are advised that they may apply for any required building permits 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, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

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2. Petitioners or subsequent owners shall not convert the subject accessory structure (carport) into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities and shall not be used for commercial purposes.

3. Development of the property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004 and other Sections of the Baltimore County Code).

4. The property is within a Limited Development Area and Buffer Management Area of the Chesapeake Bay Critical Area. Impervious surface limits are 5,445 square feet. There is also a 15% afforestation requirement which equates to seven trees.

5. The base flood elevation for this site is 10.2 feet Baltimore County Datum. The flood protection elevation for this site is 11.2 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.

6. 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.

7. 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.

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

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

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

PETITION RECEIVED FOR FILING
Date 4.14.08
By

IN RE: PETITION FOR VARIANCE E side of Seneca Park Road, NE side of Beach Road 15th Election District 6th Councilmanic District **(936 Seneca Park Road)** William and Phyllis Lagna *Petitioners*	*	BEFORE THE DEPUTY ZONING COMMISSIONER FOR BALTIMORE COUNTY **Case No. 2008-0570-A**

* * * * * * * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owners of the subject property, William and Phyllis Lagna. Petitioners are requesting variance relief as follows:

- From Section 1A04.3.B.1.a of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a lot having an area of 0.3430 acres in lieu of the required 1.5 acres; and
- From Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow sideyard setbacks of 13 feet in lieu of the required 50 feet; and
- From Section 1A04.3.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a dwelling height of 38 feet in lieu of required 35 feet.

The subject property and requested relief are more fully described on the site plan, which was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the variance request were Petitioners William and Phyllis Lagna. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence revealed that the subject property is an irregular-shaped property containing approximately 0.34 acres of land, more or less, zoned R.C.5. The property is located north of Seneca Creek off the east side of Seneca Park Road in the Middle River area of Baltimore County. The waterfront property is improved with an existing single-family dwelling,

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Date 10-8-08
By

Appendix 3B

and Petitioners are proposing to raze the existing structure and build a replacement home, which will require a variance from several of the requirements in the R.C.5 Zone. Petitioners submitted a series of photographs of the subject property and surrounding area, which were marked and accepted into evidence as Petitioners' Exhibits 2A through 2F.

The evidence demonstrated that the subject property was originally recorded and platted in approximately 1915 as part of the Seneca Park Beach subdivision. Each of the lots in the subdivision is 50 feet wide, and the subject property actually comprises 1.5 lots for a total width of 75 feet. The existing single-family dwelling, which is clearly depicted in Petitioners' Exhibit 2A, was originally constructed in 1920. The home was damaged during Hurricane Isabel in 2003, and Petitioners testified that they wished to rebuild the home at that time but were providing full time care to an elderly family member for several years, which delayed the project. After consulting with a builder, Petitioners discovered that the structure would need to be raised higher to meet flood elevation standards, and given that many of the wood beams have deteriorated, it would be more cost effective to raze the existing structure and build a new home. Petitioners submitted architectural renderings with elevations, which were marked and accepted into evidence as Petitioners' Exhibit 3.

Further testimony and evidence revealed that a number of the homes in the surrounding neighborhood have either been razed and replaced or completely renovated. According to Petitioners, there were originally eight homes on the point surrounding the subject property, and five have already been razed and rebuilt; additionally, there are already over 30 new homes in the surrounding neighborhood. Prior to filing the petition for variance, Petitioners consulted with several neighbors, who each signed a letter indicating no objection to the relief sought by Petitioners. The letters were marked and accepted into evidence as Petitioners' Exhibits 4A through 4E.

The Zoning Advisory Committee (ZAC) comment received from the Office of Planning dated August 8, 2008 does not oppose Petitioners' request, provided the construction complies with the current R.C.5 requirements. In order to make this determination, the Office of Planning will require the submission of additional information, which will be expounded on further in this Order. Comments received from the Department of Environmental Protection and Resource Management (DEPRM) dated August 19, 2008 indicates that the property must comply with the Chesapeake Bay Critical Area (CBCA) regulations. The property is located within the Limited Development Area (LDA) and Buffer Management Area (BMA) of the CBCA and impervious surfaces are limited to 31.25%. Any impervious surface within the 100 foot buffer must meet all BMA provisions and will require mitigation or fee-in-lieu. In addition, the 15% afforestation requirement must be met. Comments from the Bureau of Development Plans Review dated July 28, 2008 indicate that in conformance with Federal Flood Insurance Requirements, the first floor or basement floor must be at least one foot above the flood plain elevation in all construction, and 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 comments also states that the building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage, and that flood-resistant construction shall be in accordance with the Baltimore County Building Code, which adopts, with exceptions, the International Building Code.

Considering all the testimony and evidence presented, I am convinced that the requested relief should be granted. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. The property was plotted and recorded in approximately 1915, well before the adoption of zoning in Baltimore County. Each

of the surrounding lots is uniquely shaped and affected by the contours of the Seneca Creek shoreline. Additionally, the subject property is only 75 feet wide, and the R.C.5 zone requires 50-foot side yard setbacks. Since virtually *any* construction on the property would require a variance from the R.C.5 setback requirements, I find that the imposition of zoning on this property disproportionably impacts the subject property as compared to others in the zoning district.

I further find that this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. The R.C.5 designation was originally placed on shoreline properties to prevent infill development so as to decrease the impact of human elements on the neighboring waterfront and reduce the strain on available services, including water and sewer access and the impact on ground water septic systems. However, with technological advances and the addition of grinder pumps for sewage, the imposition of the R.C.5 requirements now appears at times to be overly burdensome.

In this case, the existing conditions currently do not meet the R.C.5 requirements since the lot is undersized and the dwelling does not maintain 50-foot side setbacks. After consulting with a builder, Petitioners also discovered they would need to raise the level of the home in order to meet flood elevation standards, so they are further constrained when trying to meet the 35-foot height limitation in the R.C.5 zone. These factors, along with the fact that five of the eight homes surrounding the subject property have already been razed and rebuilt, and that Petitioners' neighbors have no objection to the request for zoning relief, convince me that this variance can be granted in such a manner as to meet the spirit and intent of the regulations, as well as the requirements of Section 307 of the B.C.Z.R, as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

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

THEREFORE, IT IS ORDERED this 8th day of October, 2008 by this Deputy Zoning Commissioner, that Petitioners' variance request as follows:

- From Section 1A04.3.B.1.a of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a lot having an area of 0.3430 acres in lieu of the required 1,5000 acres; and
- From Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow sideyard setbacks of 13 feet in lieu of the required 50 feet; and
- From Section 1A04.3.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a dwelling height of 38 feet in lieu of required 35 feet

be and are hereby GRANTED, subject to the following:

1. Petitioners are advised that they may apply for any required building permits 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, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. Prior to obtaining a building permit, the Petitioners shall submit the following information to the Office of Planning for their determination that the proposed structure meets the R.C.5 Performance Standards.

    a. Submit photographs of existing adjacent dwellings to the Office of Planning.
    b. Submit building elevations (all sides) of the proposed dwelling to the Office of Planning for review and approval. 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) use 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.
    c. 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.
    d. 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.
    e. Provide landscaping along the public road, if it is consistent with the existing streetscape.

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3. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004 and other Sections of the Baltimore County Code).

4. The property is in a Limited Development Area (LDA) and Buffer Management Area (BMA) of the Chesapeake Bay Critical Area. Impervious surfaces are limited to 31.25%. Any impervious surface within the 100-foot buffer must meet all BMA provisions and will require mitigation or fee-in-lieu. In addition, the 15% afforestation requirement must be met.

5. The base flood elevation for this site is 10.2 feet Baltimore County Datum. The flood protection elevation for this site is 11.2 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.

6. 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.

7. 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.

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

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

ORDER RECEIVED FOR FILING
Date 10-1-08
By

IN RE: PETITION FOR ADMIN. VARIANCE SE side of Beach Road, 115 feet SW of Seneca Road 15th Election District 6th Councilmanic District **(3509 Beach Road)**	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY
John D. Cherry *Petitioner*	*	CASE NO. 07-173-A

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owner of the subject property, John D. Cherry. The variance request is for property located at 3509 Beach Road. The variance request is from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed addition with a side yard setback of 30 feet in lieu of the minimum required 50 feet, and to permit an existing dwelling with a side yard setback of 24 feet in lieu of the minimum required 50 feet, and a street centerline setback of 40 feet in lieu of the minimum required 75 feet. The subject property and requested relief are more particularly described on Petitioner's Exhibit No. 1. The Petitioner is aging and it is necessary to expand the house to make it ADA accessible. He proposes to construct a 42 foot x 40 foot addition to be located on the side of the house. There is no place else to construct the addition.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment letter was received from the Bureau of Development Plans Review dated October 31, 2006 which contains restrictions. ZAC comments were received from the Department of Environmental Protection and Resource

ORDER RECEIVED FOR FILING
Date 11-30-06
By

Appendix 3C

Management dated November 21, 2006 which contains restrictions. Copies of which are incorporated herein and made a part hereof the file.

Applicable Law

Section 307 of the B.C.Z.R. – ***Variances***.

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on October 29, 2006 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits and photographs as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

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11-30-06

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be GRANTED.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 30th day of November, 2006, that a variance from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed addition with a side yard setback of 30 feet in lieu of the minimum required 50 feet, and to permit an existing dwelling with a side yard setback of 24 feet in lieu of the minimum required 50 feet, and a street centerline setback of 40 feet in lieu of the minimum required 75 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. The minimum right-of-way for all public roads in Baltimore County is 40 feet. Show the right-of-way for Beach Road centered on existing 20 foot paving.
3. The base flood elevation for this site is 10.2 feet Baltimore County Datum.
4. The flood protection elevation for this site is 11.2 feet.
5. 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.
6. 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.
7. The building engineer shall require a permit for this project.
8. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
9. Flood-resistant construction shall be in accordance with the requirement of B.O.C.A. International Building Code adopted by the County.
10. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004 and other Sections of the Baltimore County Code).

11. This lot must comply with LDA requirements and any impacts to the 100 foot buffer will require a Chesapeake Bay Critical Area Administrative Variance.
12. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

ENTERED/RECEIVED FOR FILING
Date 11-30-06
By

IN RE: PETITION FOR VARIANCE S side Seneca Park Road at intersection with Beach Road 15th Election District 6th Councilmanic District **(900 Seneca Park Road)** Edward B. Boyle, Jr. *Legal Owner*	*	BEFORE THE DEPUTY ZONING COMMISSIONER FOR BALTIMORE COUNTY **Case No. 08-224-A**

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owner of the subject property, Edward B. Boyle, Jr. requesting relief as follows:

- From Section 1A04.3.B.1.a of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a minimum lot size of 0.5 acre in a R.C.5 zone in lieu of 1.5 acres; and
- From Section 1A04.3.B.2 of the B.C.Z.R. to allow building setbacks of 10 feet rear and 36 feet front from lot lines other than a street centerline, and a setback of 90 feet in lieu of 100 feet to road centerline that leads to a collector road; and
- From Section 400.1 of the B.C.Z.R. to allow two accessory structures to remain in a front in lieu of rear yard; and
- To permit erection of new single family dwelling on site of an existing single-family summer dwelling to be razed.

The subject property and the requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the variance requests were Petitioners Alice Marschner and Alex Marschner, on behalf of the property owner, Edward B. Boyle, Jr. Alice Marschner is the daughter of Mr. Boyle. Alex Marschner is Ms. Marschner's son. There were no Protestants or other interested persons in attendance at the hearing.

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Date 2.25.08
By PM

Appendix 3D

Testimony and evidence offered revealed that the subject property is an irregular, pie-shaped parcel containing 22,265 square feet or .51 acre, more or less, zoned R.C.5. The property is located on Seneca Creek, south of Carroll Island Road, and on the south side of Seneca Park Road in the Chase area of Baltimore County. The property also borders Beach Road to the west. It is currently improved with several structures. The main structure is a 1½-story framed summerhouse located on the east side of the property. This structure is not currently a full time residence. Located on the west side of the property are two accessory structures -- a garage-like structure for storage of boats and canoes, and an additional three-door bathhouse, which was converted to a shed-like structure for storage. Photographs of the property and the aforementioned structures were marked and accepted into evidence as Petitioners' Exhibits 2A through 2F. The photographs show the entrance into the property at the southeast corner of Seneca Park Road and Beach Road. Upon entering the property, the summerhouse is located to the left and the accessory structures are located to the right. Beyond these structures to the south is the Seneca Creek shoreline.

Ms. Marschner's parents purchased the property in 1969. The house was built in 1929, several years after the original subdivision plat was recorded. The plat, which was marked and accepted into evidence as Petitioners' Exhibit 6, shows the subject property was recorded as a lot of record in April 1926. The dwelling has served as a summerhouse for the family throughout the years, with running water, but with no bathroom. The only toilet facility had been located in an outbuilding on the property, which has since been removed. In addition, the house does not currently have running water -- due to corrosion of the original pipes, the water has been turned off. The house has survived the rain and wind of many storms, including Hurricane Isabel in September 2003, however shortly after Isabel, a tree fell and struck the house. As a result, the

current condition of the house makes it virtually uninhabitable. In light of the above, Petitioners desire raze the existing summerhouse and replace it with a more suitable, permanent structure. The new structure would not be much larger than the existing structure, with plans for a 1½-story dwelling approximately 27 feet wide by 40 feet deep, with a deck 12 feet deep off the back of the new home. In order to proceed with their plans, Petitioners require variance relief from the zoning regulations, including relief from the minimum lot size requirement, from front and rear lot line setbacks and the road centerline setback, as well as to allow the two existing accessory structures to remain in the front in lieu of the rear yard.

In support of the variance requests, Petitioners point to the unique size and shape of the property. It is the only property situated directly at the corner of Seneca Creek and Beach Roads. It is also the only pie-shaped lot in that area of Seneca Park Beach. As a result of the pie shape, the lot tapers significantly from the entrance to the property to the shore at Seneca Creek. This obviously limits the placement options of the proposed new dwelling. With Petitioners representing they have the support of the immediate neighbors to the east and west, they desire to place the new home on the footprint of the existing dwelling. In addition, the adjacent owners are currently undertaking construction of new homes of their own. Photographs which were marked and accepted into evidence as Petitioners' Exhibits 3A and 3B show the construction of a 2½-story home on the property to the east. Construction appears to be ongoing.

Photographs of several views of the shoreline along Seneca Creek to the east and west of the subject property were marked and accepted into evidence as Petitioners' Exhibits 4A through 4C. These photographs were taken from Petitioners' pier. As shown in the photographs, one characteristic that differentiates the properties is that the subject property has significantly more vegetation and mature trees than the others, both along the waterfront and on the sides of the

property. This also limits the areas on which to place a new dwelling and causes Petitioners to once again come back to the original footprint area in order to construct the replacement dwelling. As to the existing accessory structures, Petitioners indicate that they have been in existence since prior to the purchase of the property in 1969, and according to records obtained from the prior owner, for a significantly long time, very possibly predating zoning on the property. The structures will continue to be used for storage and not as dwellings or other purposes.

The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. The comment received from the Office of Planning dated December 5, 2007 does not oppose Petitioners' request, provided the construction complies with the current R.C.5 requirements. In order to make this determination, the Office of Planning will require the submission of additional information, which will be expounded on further in this Order. The comments received from the Bureau of Development Plans Review dated November 28, 2007 indicate that the first floor or basement must be at least one foot above the flood plain elevation in all construction, the building should be designed and adequately anchored to prevent flotation or collapse and constructed of materials resistant to flood damage. Flood-resistant construction should be in accordance with the Baltimore County Building Code which adopts the International Building Code. The comments from the Department of Environmental Protection and Resource Management (DEPRM) dated January 15, 2008 indicate that development of the property must comply with Chesapeake Bay Critical Area Regulations. In addition, the property is in a Limited Development Area (LDA) and a Buffer Management Area (BMA). Impervious surfaces are limited to 5,445 square feet and 15% afforestation must be met, as well as all BMA provisions.

Considering all the testimony and evidence presented, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance requests. The distinctive shape of the subject property, its location at the corner of Seneca Creek and Beach Roads, its significant vegetation and trees, and the age of the existing main dwelling and accessory structures, make the property unique in a zoning sense. Hence, the imposition of zoning on this property disproportionably impacts the subject property as compared to others in the zoning district. I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. With the existence and location of the accessory structures and the size and shape of the tapering lot, compliance with the setback requirements is virtually impossible.

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

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

THEREFORE, IT IS ORDERED this 25th day of February, 2008 by this Deputy Zoning Commissioner, that Petitioners' variance requests as follows:

- From Section 1A04.3.B.1.a of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a minimum lot size of 0.5 acre in a R.C.5 zone in lieu of 1.5 acres; and
- From Section 1A04.3.B.2 of the B.C.Z.R. to allow building setbacks of 10 feet rear and 36 feet front from lot lines other than a street centerline, and a setback of 90 feet in lieu of 100 feet to road centerline that leads to a collector road; and
- From Section 400.1 of the B.C.Z.R. to allow two accessory structures to remain in a front in lieu of rear yard; and

- To permit erection of new single family dwelling on site of an existing single-family summer dwelling to be razed;

be and are hereby GRANTED, subject to the following.

1. Petitioners are advised that they may apply for any required building permits 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, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. Prior to obtaining a building permit, Petitioners shall submit the following information to the Office of Planning for their determination that the proposed structure meets the R.C.5 Performance Standards:

    a. Submit photographs of existing adjacent dwellings to the Office of Planning.

    b. Submit building elevations (all sides) of the proposed dwelling to the Office of Planning for review and approval. The proposed dwelling shall be compatible in size and architectural detail as that of the existing dwellings in the area. Petitioners shall ensure that the exterior of the proposed building(s) use 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.

    c. Petitioners shall 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.

    d. Petitioners shall 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.

    e. Petitioners shall provide landscaping along the public road, if it is consistent with the existing streetscape.

3. The base flood elevation for this site is 10.2 feet Baltimore County Datum. The flood protection elevation for this site is 11.2 feet.

4. 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.

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2·25·08
PM

5. The property to be developed is located adjacent to tidewater. Petitioners are 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.

6. The building engineer shall require a permit for this project.

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

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

9. Development of the property must comply with Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other sections, of the Baltimore County Code).

10. The property is in a Limited Development Area (LDA) and a Buffer Management Area (BMA). Impervious surfaces are limited to 5,445 square feet and 15% afforestation must be met, as well as all BMA provisions.

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

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

ORDER RECEIVED FOR FILING
Date 2.25.08
By

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI
DAVID W. TERRY*
*Admitted in MD, MO, IL, AR

LAUREN DODRILL BENJAMIN
CHRISTOPHER W. COREY
MARIELA C. D'ALESSIO**
NATALIE MAYO
ELYANA TARLOW
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
**Admitted in MD, FL, PA

January 30, 2015

Via Facsimile
Krysundra L. Cannington
County Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: In the Matter of: Roy E. Jones (Deceased) and Jean Jones – Legal Owner
Robert Long – Contract Purchaser
3505 Beach Road
Case No. 14-172-A

Dear Sunny,

Due to extenuating circumstances, please accept this letter as a request for an extension of time to file Petitioner's Closing Brief which is due today. My mother has been in and out of the hospital over the past week. The hospital has moved her to hospice care this morning.

My office has left messages for Mr. Covahey, but have not heard back whether he is in concurrence with our request, although I am sure he will concur.

I propose revised due dates as follows:

Petitioner's Closing Brief due February 6th (by 3:30 p.m.)
Protestant's Closing Brief due February 13th (by 3:30 p.m.)
Petitioner's Reply Brief due February 20th (by 3:30 p.m.).

Thank you for your consideration of this request.

Very truly yours,

Lawrence E. Schmidt/amf

Lawrence E. Schmidt

LES/amf
cc: Edward C. Covahey, Jr. Esquire and Bruce Covahey, Esquire
Robert Long
Jean Jones

- Fax Transmission

To: Tammy **From:** Alyssa

Fax: 14108873182 **Date:** 1/30/2015

RE: 3505 Beach Road **Pages:** 2

Comments:

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

January 7, 2015

NOTICE OF PUBLIC DELIBERATION

IN THE MATTER OF: Roy E. Jones (Deceased) & Jean Jones – Legal Owner
14-172-A Robert Long – Contract Purchaser
3505 Beach Road
15th Election District; 6th Councilmanic District

Re: Petition for Variance pursuant to Sections 1A04.3 and 301.1 of the B.C.Z.R. as follows:
1) To allow an area of 9,750 sq. ft. in lieu of the required 1-1/2 acres
2) To allow an open projection deck with a setback of 13 ft. in lieu of the required 37-1/2 ft.
3) To allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively.
4) To allow a building coverage of 20% in lieu of the maximum required 15%
5) To allow any variances deemed necessary by the Administrative Law Judge

4/23/14 Opinion and Order of the Administrative Law Judge wherein the requested relief was granted in part and denied in part.

This matter having been heard and concluded on January 5, 2015, a public deliberation has been scheduled for the following:

DATE AND TIME: **THURSDAY, MARCH 5, 2015 at 9:30 a.m.**

LOCATION: Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

NOTE: Petitioner's Closing briefs are due on **Friday, January 30, 2015 by 3:30 p.m.**
Protestant's Closing briefs are due on **Friday, February 6, 2015 by 3:30 p.m.**
Petitioner's Reply briefs are due on **Friday, February 13, 2015 by 3:30 p.m.**
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

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c: See attached Distribution List

c:	Attorney for Petitioner/Contract Purchaser	: Lawrence E. Schmidt, Esquire
	Petitioner/LO	: Jean Jones
	Contract Purchaser	: Robert Long
	Attorney for Appellants	: Edward C. Covahey, Jr., Esquire and Bruce Edward Covahey
	Appellants	: Kevin and Anne Kauuders; Karl Kiesling

Bernadette Moskunas, Site Rite Surveying, Inc.

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
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JASON T. VETTORI
DAVID W. TERRY*
*Admitted in MD, MO, IL, AR

LAUREN DODRILL BENJAMIN
CHRISTOPHER W. COREY
MARIELA C. D'ALESSIO**
NATALIE MAYO
ELYANA TARLOW
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
**Admitted in MD, FL, PA

December 10, 2014

Via First Class Mail
Krysundra Cannington
Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: 3505 Beach Road
Case No. 2014-0172-A

Dear Sunny,

I write by way of follow up to the Notice of Appeal which was filed in the above referenced matter on or about May 19, 2014.

Please be advised that I represent Robert Long in this matter. Accordingly, please be sure to include me on any notices sent.

Please call should you have any interim questions.

Very truly yours,

Lawrence E. Schmidt

LES/amf
cc: People's Counsel for Baltimore County
Jean Jones, 503 Elm Street, Conway, SC 29526
Bruce Covahey, Esquire, 614 Bosley Avenue, Towson, MD 21204-4029

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

November 20, 2014

NOTICE OF REASSIGNMENT

IN THE MATTER OF: Roy E. Jones (Deceased) & Jean Jones – Legal Owner
14-172-A Robert Long – Contract Purchaser
3505 Beach Road
15th Election District; 6th Councilmanic District

Re: Petition for Variance pursuant to Sections 1A04.3 and 301.1 of the B.C.Z.R. as follows:
1) To allow an area of 9,750 sq. ft. in lieu of the required 1-1/2 acres
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4) To allow a building coverage of 20% in lieu of the maximum required 15%
5) To allow any variances deemed necessary by the Administrative Law Judge

4/23/14 Opinion and Order of the Administrative Law Judge wherein the requested relief was granted in part and denied in part.

ASSIGNED FOR: MONDAY, JANUARY 5, 2015, AT 10:00 A.M.

LOCATION: Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

---

c: Petitioner/LO : Jean Jones
Contract Purchaser : Robert Long

Appellants : Kevin and Anne Kauuders; Karl Kiesling

Bernadette Moskunas, Site Rite Surveying, Inc.
Office of People's Counsel
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney

Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law

IN THE COUNTY BOARD OF APPEALS
FOR BALTIMORE COUNTY

In the matter of:	*	
Roy E. Jones (Deceased) & Jean Jones - Legal Owner Robert Long – Contract Purchaser 3505 Beach Road 15th Election District; 6th Councilmanic District	*	Case No. 14-172-A
	*	Variance Appeal
Petitioner/Appellant	*	

* * * * * * * * * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the undersigned counsel on behalf of the Protestants, Karl Kiesling, Kevin Kauuders and Anne Kauuders.

EDWARD C. COVAHEY, JR.

RECEIVED
NOV 19 2014
BALTIMORE COUNTY
BOARD OF APPEALS

BRUCE EDWARD COVAHEY
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204
410-828-9441

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th of November, 2014, a copy of the foregoing Entry of Appearance was hand-delivered to the People's Counsel for Baltimore County, The Jefferson Building, 105 West Chesapeake Avenue, Suite 204, Towson, Maryland 21204.

EDWARD C. COVAHEY, JR.

jk141120

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

October 3, 2014

NOTICE OF REASSIGNMENT

IN THE MATTER OF: Roy E. Jones (Deceased) & Jean Jones – Legal Owner
14-172-A Robert Long – Contract Purchaser
3505 Beach Road
15th Election District; 6th Councilmanic District

Re: Petition for Variance pursuant to Sections 1A04.3 and 301.1 of the B.C.Z.R. as follows:
1) To allow an area of 9,750 sq. ft. in lieu of the required 1-1/2 acres
2) To allow an open projection deck with a setback of 13 ft. in lieu of the required 37-1/2 ft.
3) To allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively.
4) To allow a building coverage of 20% in lieu of the maximum required 15%
5) To allow any variances deemed necessary by the Administrative Law Judge

4/23/14 Opinion and Order of the Administrative Law Judge wherein the requested relief was granted in part and denied in part.

ASSIGNED FOR: WEDNESDAY, NOVEMBER 19, 2014, AT 10:00 A.M.

LOCATION: Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

---

c: Petitioner/LO : Jean Jones
Contracto Purchaser : Robert Long

Appellants : Kevin and Anne Kauuders; Karl Kiesling

Bernadette Moskunas, Site Rite Surveying, Inc.
Office of People's Counsel
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law

Board of Appeals of Baltimore County

Please reschedule case 14 – 172 – a 3505 Beach Rd., Baltimore, MD 21220 in the week of November 15, 2014. The owner Jean Jones resides in South Carolina will be here that week, Ms. Jones is a senior citizen and any consideration would be appreciated

Thank you in advance

Robert Long

3827 Annandale Rd.

Baltimore, MD 21222

410-686-5100

Post-it® Fax Note 7671	Date 9-30-14	# of pages ▶ 1
To	From Robert Long	
Co./Dept.	Co.	
Phone #	Phone #	
Fax #	Fax #	

From: Baltimore County Faxcom System <Faxcom@baltimorecountymd.gov>
To: "appealsboard@baltimorecountymd.gov" <appealsboard@baltimorecountymd.gov>
Date: 9/30/2014 10:25 AM
Subject: Fax Received From: 4103881610
Attachments: 8439093014.PDF

This message was sent via the Baltimore County Government Faxcom fax System.

-------Fax Reception Report-------
Result: All pages received OK
Pages Received: 001
Received: 09/30/14 10:25
Connect Time: 00026
Sender TSID: 410 388 1610
From: 4103881610
Destination DID: 4108873182

Your fax is attached below as a PDF image.

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

July 9, 2014

NOTICE OF POSTPONEMENT AND REASSIGNMENT

IN THE MATTER OF: Roy E. Jones (Deceased) & Jean Jones – Legal Owner
14-172-A Robert Long – Contract Purchaser
3505 Beach Road
15th Election District; 6th Councilmanic District

Re: Petition for Variance pursuant to Sections 1A04.3 and 301.1 of the B.C.Z.R. as follows:
1) To allow an area of 9,750 sq. ft. in lieu of the required 1-1/2 acres
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4) To allow a building coverage of 20% in lieu of the maximum required 15%
5) To allow any variances deemed necessary by the Administrative Law Judge

4/23/14 Opinion and Order of the Administrative Law Judge wherein the requested relief was granted in part and denied in part.

This matter was scheduled for Tuesday, August 19, 2014 and is hereby postponed by the Board of Appeals for Baltimore County. It has been

REASSIGNED FOR: TUESDAY, AUGUST 26, 2014, AT 10:00 A.M.

LOCATION: Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

---

c: Petitioner/LO : Jean Jones
Contracto Purchaser : Robert Long

Appellants : Kevin and Anne Kauuders; Karl Kiesling

Bernadette Moskunas, Site Rite Surveying, Inc.
Office of People's Counsel
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney

Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

June 24, 2014

NOTICE OF ASSIGNMENT

IN THE MATTER OF: Roy E. Jones (Deceased) & Jean Jones – Legal Owner
14-172-A Robert Long – Contract Purchaser
3505 Beach Road
15th Election District; 6th Councilmanic District

Re: Petition for Variance pursuant to Sections 1A04.3 and 301.1 of the B.C.Z.R. as follows:
1) To allow an area of 9,750 sq. ft. in lieu of the required 1-1/2 acres
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4) To allow a building coverage of 20% in lieu of the maximum required 15%
5) To allow any variances deemed necessary by the Administrative Law Judge

4/23/14 Opinion and Order of the Administrative Law Judge wherein the requested relief was granted in part and denied in part.

ASSIGNED FOR: TUESDAY, AUGUST 19, 2014, AT 10:00 A.M.

LOCATION: Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

---

c: Petitioner/LO : Jean Jones
Contracto Purchaser : Robert Long

Appellants : Kevin and Anne Kauuders; Karl Kiesling

Bernadette Moskunas, Site Rite Surveying, Inc.
Office of People's Counsel
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney

Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law

APPEAL

Petition for Variance
(3505 Beach Road)
15th Election District – 6th Councilmanic District
Legal Owner: Roy E. (Deceased) & Jean Jones, *Owner* and Robert Long, *Contract Purchaser*
Case No. 2014-0172-A

✓Petition for Variance Hearing (February 21, 2014)

✓Zoning Description of Property

✓Notice of Zoning Hearing (March 13, 2014)

✓Certificate of Publication (March 27, 2014)

✓ Certificate of Posting (March 26, 2014) SSG Robert Black

✓Entry of Appearance by People's Counsel (March 14, 2014)

✓Petitioner(s) Sign-in Sheet – One
✓Citizen(s) Sign-in Sheet – One

✓Zoning Advisory Committee Comments

Petitioner(s) Exhibits -
- ✓1. Site Plan
- ✓2. Aerial Photo of Site
- ✓3. SDAT Record; Deed and Boundary Survey
- ✓4. Photos and Proposed Elevations
- ✓5. Seneca Park Beach Plat

✓ Protestants' Exhibits – None

✓ Miscellaneous (Not Marked as Exhibits)

✓Administrative Law Judge Order and Letter (GRANTED with Conditions – April 23, 2014)

✓ Notice of Appeal –May 19, 2014 from Kevin Kauders & Anne Franey (Kauders) (3507 Beach Road) and Karl Kiesling (3503 Beach Road)

APPEAL

Petition for Variance
(3505 Beach Road)
15th Election District – 6th Councilmanic District
Legal Owner: Roy E. (Deceased) & Jean Jones, *Owner* and Robert Long, *Contract Purchaser*
Case No. 2014-0172-A

Petition for Variance Hearing (February 21, 2014)

Zoning Description of Property

Notice of Zoning Hearing (March 13, 2014)

Certificate of Publication (March 27, 2014)

Certificate of Posting (March 26, 2014) SSG Robert Black

Entry of Appearance by People's Counsel (March 14, 2014)

Petitioner(s) Sign-in Sheet – One
Citizen(s) Sign-in Sheet – One

Zoning Advisory Committee Comments

Petitioner(s) Exhibits -

1. Site Plan
2. Aerial Photo of Site
3. SDAT Record; Deed and Boundary Survey
4. Photos and Proposed Elevations
5. Seneca Park Beach Plat

Protestants' Exhibits – None

Miscellaneous (Not Marked as Exhibits)

Administrative Law Judge Order and Letter (GRANTED with Conditions – April 23, 2014)

Notice of Appeal –May 19, 2014 from Kevin Kauders & Anne Franey (Kauders) (3507 Beach Road) and Karl Kiesling (3503 Beach Road)

KEVIN KAMENETZ
County Executive

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

May 27, 2014

Jean Jones
503 Elm Street
Conway, South Carolina 29526

Robert Long
3827 Annadale Road
Baltimore, Maryland 21222

RE: **APPEAL TO BOARD OF APPEALS – PETITION FOR VARIANCE**
Property: 3505 Beach Road
Case No.: 2014-0172-A

Dear Ms. Jones and Mr. Long:

Please be advised that an appeal of the above-referenced case was filed in this Office on May 19, 2014. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to contact the Board at 410-887-3180.

Sincerely,

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:dlw

c: Baltimore County Board of Appeals
People's Counsel for Baltimore County
Bernadette Moskunas, 200 E. Joppa Road, Room 101, Towson, Maryland 21286
Kevin and Anne Kauders, 3507 Beach Road, Middle River, Maryland 21220
Karl Kiesling, 3503 Beach Road, Middle River, Maryland 21220

Dated 5-19-2014

To all whom this may concern,

We, Kevin Kauders and Karl Kiesling, are appealing Case No. 2014-0172-A in reference to a petition for variance for property located at 3505 Beach Road Baltimore, Md. 21220. This petition for variance was filed by Jean Jones, legal owner and Robert Long, contract purchaser (Petitioners).

We object to the petitioners being permitted to build such a large structure on a very small waterfront lot. The property at 3505 Beach Road has a history of flooding very easily and it takes several days now for flood water to absorb into the ground. Allowing such a big building to be constructed on this small lot could result in a permanent swamp. Allowing petitioners to raise the ground level could possibly cause ground erosion on both neighboring lots. Building such a large Dwelling will limit the drainage area and will affect both neighboring lots. This lot is too small for the size of dwelling that the petitioners want to construct there and will impact drainage.

Mr. Kauders has lived at 3507 Beach Road for many years and has enjoyed the view of the water from his home. Allowing the petitioners to construct such a large dwelling on this small lot will obstruct his water view enormously. Taking away his water view will decrease the value of his home, causing great hardship for the Kauders' family.

Allowing this size dwelling on this lot also causes safety concerns for the two neighboring properties. In the event that a fire would occur in any of these three dwellings, it wouldn't be safe for the other two dwellings because of how close all three would be to each other. As stated by the county, in 2003 after hurricane Isabelle petitioners like ourselves had to stay within the County codes or within the footprints of the existing dwelling. Also, more recently, the EPA has denied many property changes due to impervious surfaces. We believe these policies should continue to be adhered to.

This petition for variance should be denied based on environmental issues, safety, and all fairness to neighboring property owners. Thank you in advance for taking our concerns into consideration.

Thank You,

Kevin Kauders **Anne Franey (Kauders)** **Karl Kiesling**

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

No. 9460

Date: 5/21/14

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	000		6150				265.00

Total: 265.00

Rec From: Karl Kiesling

For: 2014-0172-A

3505 Beech Rd.

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

CASHIER'S VALIDATION

John Beverungen - 2014-172-A

From: John Beverungen
To: siteriteinc@aol.com
Date: 5/8/2014 11:21 AM
Subject: 2014-172-A
CC: Sherry Nuffer

Ms. Moskunas,

As you requested, this is to confirm receipt of the **amended** site plan in the above case. The plan, which is signed and sealed, was submitted in accordance with the conditions imposed in the April 23, 2014 Order. A copy of this email, amended site plan, and accompanying correspondence will be kept in the case file.

John Beverungen
ALJ

4-15-14
1:30 pm

Administrative Hearings - Case # 2014-0172-A

From: "Robert B. Long GRI" <covenantrealty@mris.com>
To: <administrativehearings@baltimorecountymd.gov>
Date: 4/30/2014 11:55 AM
Subject: Case # 2014-0172-A
CC: "Bernadette Moskunas" <siteriteinc@aol.com>

RECEIVED
APR 30 2014
OFFICE OF ADMINISTRATIVE HEARINGS

To The Honorable John Beverungen,

Case #2014-0172-A
Ref: 3505 Beach Road

As you requested in your order, Ms. Bernadette Moskunas of Site Right Surveying will be submitting a revised plan within 15 days of the order. The new site plan will reflect the approved variance.

Thank you in advance.

Robert Long
410-336-5100

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(3505 Beach Road)		
15th Election District	*	OF ADMINISTRATIVE
6th Councilman District		
Roy E. (Deceased) & Jean Jones, *Owner*	*	HEARINGS FOR
Robert Long		
Contract Purchaser	*	BALTIMORE COUNTY
Petitioners		
	*	**CASE NO. 2014-0172-A**

* * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Roy E. Jones (Deceased) and Jean Jones, legal owners and Robert Long, contract purchaser ("Petitioners"). The Petitioners are requesting variance relief from Sections 1A04.3 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), as follows: (1) to allow an area of 9,750 sq. ft. in lieu of the required 1.5 acres; (2) to allow an open projection deck with a setback of 13 ft. in lieu of the required 37.5 ft.; (3) to allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively; and (4) to allow a building coverage of 20% in lieu of the maximum required 15%. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the public hearing in support of the requests was Robert Long and Bernadette Moskunas, whose firm prepared the plan. The adjoining neighbors on either side of the subject property attended the hearing and opposed the petition. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations.

Zoning Advisory Committee (ZAC) comments were received from the Department of

Planning (DOP) dated April 7, 2014, the Bureau of Development Plans Review (DPR) dated March 20, 2014, and the Department of Environmental Protection and Sustainability (DEPS) dated April 11, 2014. DPR noted Petitioners were required to satisfy the County's flood protection laws, while DEPS indicated Petitioners must satisfy the Critical Area regulations. The DOP did not oppose the Petition.

Testimony and evidence revealed that the subject property is approximately 9,750 ± square feet and is zoned RC 5. Petitioner (Mr. Long) is planning to purchase the property, and requires variance relief to construct a dwelling on the site. The site was improved with a single family dwelling but the structure had to be razed after suffering extensive storm damage.

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).

Petitioners have met this test, although I do not believe that the Petition as filed should be granted in its entirety, as discussed below. The lot is narrow and deep, and was created over 80 years ago. As such, it is arguably unique.

If the B.C.Z.R. were strictly interpreted, the Petitioners would suffer a practical difficulty, given they would be unable to construct a replacement dwelling on site. 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 general welfare. This is demonstrated by the DOP's comment, which found the proposal was consistent with the RC 5 zone performance standards.

The original dwelling on the site was substantially smaller than the one proposed by

Petitioners. While it is true, as noted by the DOP, that many of the original homes in the area have been replaced with much larger dwellings, the circumstances here are such that the proposed structure (w/ 9' side yard setbacks) would "dwarf" the neighboring dwelling at 3507 Beach Road. It would also severely restrict that owner's view of Seneca Creek.

The B.C.Z.R. permits nonconforming structures which are destroyed by casualty to be reconstructed, and the regulations also permit the Zoning Commissioner to authorize an enlargement ("extension") of the original structure by 25% of the ground floor area. B.C.Z.R. §§104.2 and 104.3. I believe that is the more appropriate remedy in this case, and variance relief will be granted to that extent. To address the concerns raised by the neighbors, the side yard setbacks shall be no less than 10 feet.

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

THEREFORE, IT IS ORDERED, this 23rd day of April, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Sections 1A04.3 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: (1) to allow an area of 9,750 sq. ft. in lieu of the required 1.5 acres; (2) to allow an open projection deck (in the rear yard) with a setback of 13 ft. in lieu of the required 37.5 ft.; (3) to allow a replacement dwelling with a rear yard setback of 33 ft. and 10 ft. setbacks on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively; and (4) to the extent necessary when constructing a replacement dwelling that is no greater than 25% larger than the former dwelling on site which was razed, to allow a building coverage of 20% in lieu of the maximum required 15%, be and is hereby GRANTED.

ORDER RECEIVED FOR FILING
Date 4/23/14
By

IT IS FURTHER ORDERED that Petitioners shall be permitted to construct on the site a replacement dwelling that is (at the maximum) 25% larger than the ground floor area of the former dwelling which was razed due to storm damage.

The relief granted herein shall be subject to the following:

- Petitioners may apply for appropriate permits 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, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- Petitioners must comply with the ZAC comments of the DEPS and Bureau of DPR, copies of which are attached hereto and incorporated herein.
- Petitioners may extend/increase by up to 25% of the ground floor area of the prior (now razed) structure the size of the replacement dwelling, and the site plan shall be revised accordingly within fifteen (15) days of the date 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:sln

ORDER RECEIVED FOR FILING
Date 4/23/14
By sln

KEVIN KAMENETZ
County Executive

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

April 23, 2014

Robert Long
3827 Annadale Road
Baltimore, Maryland 21222

RE: Petition for Variance
Property: 3505 Beach Road
Case No.: 2014-0172-A

Dear Mr. Long:

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 Baltimore County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Baltimore County Office of Administrative Hearings at 410-887-3868.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: Bernadette Moskunas, 200 E. Joppa Road, Room 101, Towson, Maryland 21286
Kevin Kauders, 3507 Beach Road, Middle River, Maryland 21220
Karl Kiesling, 3503 Beach Road, Middle River, Maryland 21220

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: March 20, 2014

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

SUBJECT: Zoning Advisory Committee Meeting
For March 20, 2014
Item No. 2014-0172

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comments.

The base flood elevation for this site is 10.2 feet [NAVD 88].

The flood protection elevation is 11.2. 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 14-0172-03172014.doc

ORDER RECEIVED FOR FILING
Date 4/23/14
By dlr

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

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: April 11, 2014

SUBJECT: DEPS Comment for Zoning Item # 2014-0172-A
Address 3505 Beach Road
(Jones Property)

Zoning Advisory Committee Meeting of March 10, 2014.

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. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

   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 permit a dwelling with a reduced rear yard setback, reduced deck setback, less building coverage, and less lot area than permitted. Lot coverage on the entirety of this property is limited to 31.25% (3046 square feet), with mitigation required for lot coverage above 25% (2437 square feet). Lot coverage information was not provided. 15% afforestation, or 3 trees, is required in the LDA; existing trees that will remain may be counted towards this requirement. If the applicant can meet the lot coverage requirements and the 15% afforestation requirements, the relief requested by the applicant will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

   This property is waterfront. If both lot coverage and afforestation requirements are met, that will help conserve fish, plant, and wildlife habitat in the Chesapeake Bay.

ORDER RECEIVED FOR FILING
Date 4/23/14
By DEN

3. 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;

   Afforestation and lot coverage information were not included. Provided that the applicants meet all the requirements stated above, the relief requested will be consistent with established land-use policies.

Reviewer: *Regina Esslinger – Environmental Impact Review (EIR)*

ORDER RECEIVED FOR FILING
Date 4/23/14
By Den

CBCA

FLOOD

PETITION FOR ZONING HEARING(S)

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 3505 Beach Rd, Balto, MD 21222 **which is presently zoned** RC5

Deed References: 06162/00663 10 Digit Tax Account # 1502201030

Property Owner(s) Printed Name(s) Ray E. Jones & Jean Jones

(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)

See attached

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)**

TO be presented at 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:

Robert Long
Name- Type or Print

Signature

3827 Annadale Rd Balto MD
Mailing Address City State

21222 / 4103365100 / covenantrealty@mris.com
Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Ray E. Jones / Jean Jones
Name #1 - Type or Print Name #2 – Type or Print

Deceased / Jean Jones
Signature #1 Signature # 2

503 Elm St Conway SC
Mailing Address City State

29526 / 18432430307 /
Zip Code Telephone # Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

ORDER RECEIVED FOR FILING
Date 4/23/14
By DEN

Representative to be contacted:

Robert Long
Name – Type or Print

Signature

3827 Annadale Rd Balto MD
Mailing Address City State

21222 / 4103365100 / covenantrealty@mris.com
Zip Code Telephone # Email Address

CASE NUMBER 2014-0172-A **Filing Date** 2/21/14 **Do Not Schedule Dates:** _____ **Reviewer** JF

REV. 10/4/11

CBCA

FLOOD

PETITION FOR ZONING HEARING(S)

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 3505 Beach Rd, Balto, MD 21225 **which is presently zoned** RC5

Deed References: 01162/00663 10 Digit Tax Account # 1502201036

Property Owner(s) Printed Name(s) Ray E. Jones & Jean Jones

(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)**

see attached

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)**

TO be presented at 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:

Robert Long

Name- Type or Print

Signature

3827 Annadale Rd Balto MD

Mailing Address City State

21222 / 4103365100 / covenantrealty@mris.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Ray E. Jones, Jean Jones

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

Deceased / Jean Jones

Signature #1 Signature #2

503 Elm St Conway SC

Mailing Address City State

29526 / 8432430307 /

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:

Robert Long

Name – Type or Print

Signature

3827 Annadale Rd Balto MD

Mailing Address City State

21222 / 4103365100 / covenantrealty@mris.com

Zip Code Telephone # Email Address

CASE NUMBER 2014-0172-A **Filing Date** 2/21/14 **Do Not Schedule Dates:** _____ **Reviewer** JF

REV. 10/4/11

Section 1A04.3 and 301.1 BCZR

1. To allow an area of 9,750 sq. ft. in lieu of the required 1 ½ acres.
2. To allow an open projection deck with a setback of 13 ft. in lieu of the required 37 ½ ft.
3. To allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively.
4. To allow a building coverage of 20% in lieu of the maximum required 15%
5. To allow any variances deemed necessary by the Administrative Law Judge

ZONING PROPERTY DESCRIPTION
#3505 BEACH ROAD

BEGINNING on the east side of Beach Road which has a variable right of way width at the distance of 245 feet south of the centerline of Seneca Park Road which is 30 feet wide. Being Lot No. 47 in the Subdivision of "Seneca Park Beach" as recorded in Baltimore County Plat Book No. 8, folio No. 45, containing 9,750 S.F. Located in the 15th Election District and 6th Councilmanic District.

Michael V. Moskunas

Michael V. Moskunas
Professional Land Surveyor
Reg. No. 21175

Site Rite Surveying, Inc.
200 E. Joppa Road
Suite 101
Towson MD 21286
(10) 828-9060

FILE: 3505 BEACH ROAD and GENL NOTES.DOC\2014 ZONING DESC

2014-0172-A

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: 2014-0172-A

Petitioner: Jean Jones Contract Purchaser Bob Long

Address or Location: 3505 Beach Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: Bob Long

Address: 3827 Annadale Road
Dundalk, MD 21222

Telephone Number: 410 336-5100

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

No. 108073

Date: 2/21/14

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		G152				75.00

Total: 75.00

Rec From: Robert Lang

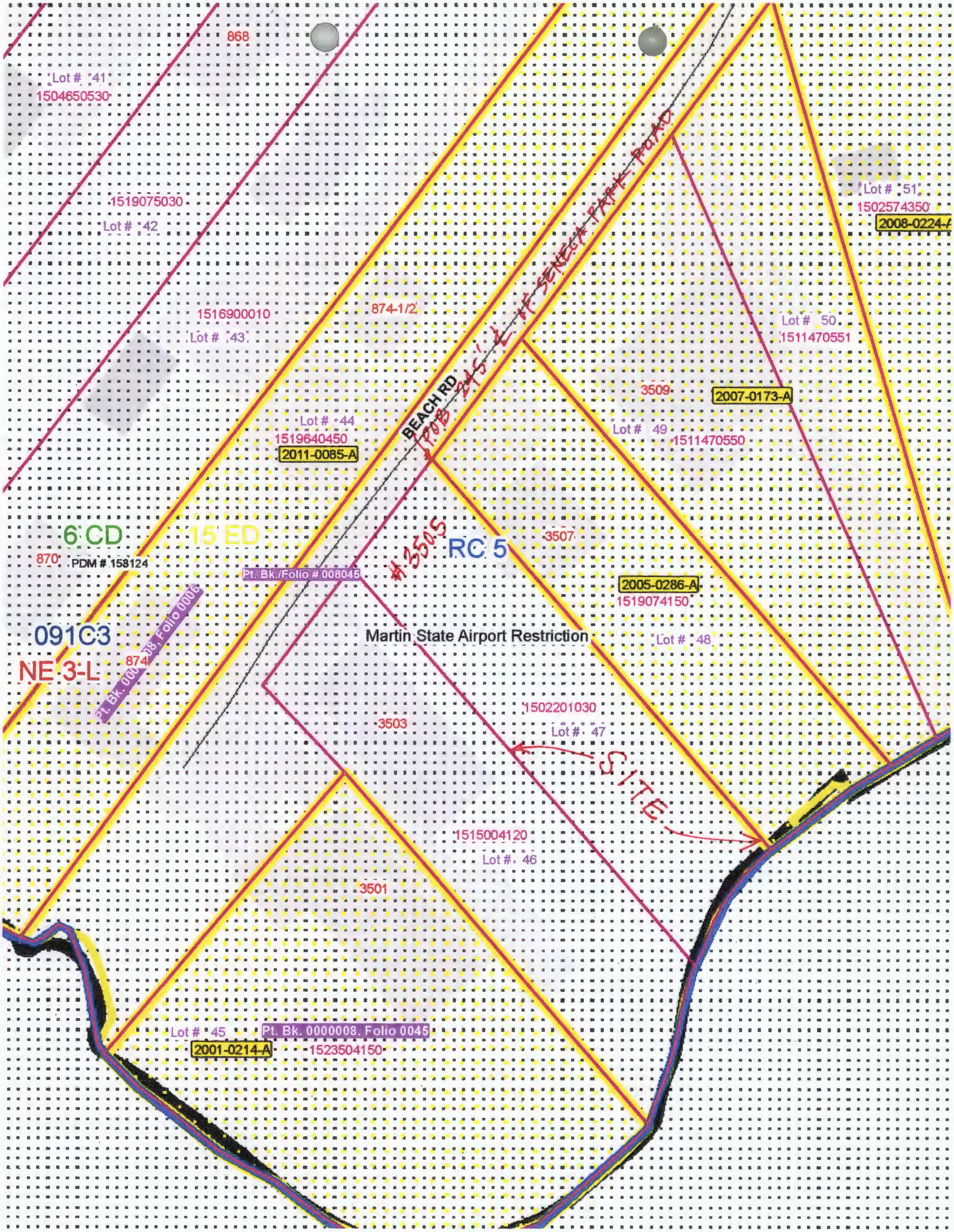
For: 3505 Beech Rd.
Petition for Variance

Case # 2014-0172-A

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

PAID RECEIPT
DATE ACCT TIME REV
2/21/2014 2/21/2014 10:57:00 8
FROM: ROBERT SHIL SAH
RECEIPT # 210401 2/21/2014 OFLH
5 528 ZONING VERIFICATION
Rec. 108073
Paid Tot $75.00
$75.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION


868
Lot # 41
1504650530
1519075030
Lot # 42
1516900010
Lot # 43
874-1/2
Lot # 51
1502574350
2008-0224-A
Lot # 50
1511470551
BEACH RD
POB 245' ℄ of SENECA PARK ROAD
3509
2007-0173-A
Lot # 49
1511470550
Lot # 44
1519640450
2011-0085-A
6 CD
15 ED
870
PDM # 158124
Pt. Bk./Folio # 008045
#3505
RC 5
3507
2005-0286-A
1519074150
091C3
NE 3-L
874
Pt. Bk. 0000008. Folio 0006
Martin State Airport Restriction
Lot # 48
1502201030
Lot # 47
3503
SITE
1515004120
Lot # 46
3501
Lot # 45
Pt. Bk. 0000008. Folio 0045
2001-0214-A
1523504150

2014-0172-A

KEVIN KAMENETZ
County Executive

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

March 13, 2014

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: 2014-0172-A
3505 Beach Road
E/s Beach Road at the distance of 245 ft. s/of centerline of Seneca Park Road
15th Election District – 6th Councilmanic District
Legal Owners: Ray E. Jones (deceased) & Jean Jones
Contract Purchaser: Robert Long

Variance to allow an area of 9,750 sq. ft. in lieu of the required 1 ½ acres; to allow an open projection deck with a setback of 13 ft. in lieu of the required 37 ½ ft.; to allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively. To allow a building coverage of 20% in lieu of the maximum required 15%; to allow any variances deemed necessary by the Administrative Law Judge.

Hearing: Tuesday, April 15, 2014 at 1:30 p.m.in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Arnold Jablon
Director

AJ:kl

C: Robert Long, 3827 Annadale Road, Baltimore 21222
Jean Jones, 503 Elm Street, Conway SC 29526

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, MARCH 26, 2014**
(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, March 25, 2014 Issue - Jeffersonian

Please forward billing to:
Bob Long 410-336-5100
3827 Annadale Road
Baltimore, MD 21222

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2014-0172-A
3505 Beach Road
E/s Beach Road at the distance of 245 ft. s/of centerline of Seneca Park Road
15th Election District – 6th Councilmanic District
Legal Owners: Ray E. Jones (deceased) & Jean Jones
Contract Purchaser: Robert Long

Variance to allow an area of 9,750 sq. ft. in lieu of the required 1 ½ acres; to allow an open projection deck with a setback of 13 ft. in lieu of the required 37 ½ ft.; to allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively. To allow a building coverage of 20% in lieu of the maximum required 15%; to allow any variances deemed necessary by the Administrative Law Judge.

Hearing: Tuesday, April 15, 2014 at 1:30 p.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.

RE: PETITION FOR VARIANCE 3505 Beach Road; E/S of Beach Road, 245' S of c/line of Seneca Park Road 15th Election & 6th Councilmanic Districts Legal Owner(s): Roy & Jean Jones Contract Purchaser(s): Robert Long Petitioner(s)	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2014-172-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
MAR 14 2014

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of March, 2014, a copy of the foregoing Entry of Appearance was mailed to Robert Long, 3827 Annadale Road, Baltimore, MD 21222, Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CERTIFICATE OF POSTING

RE: Case No.: 2014-0172-A

Petitioner/Developer: Ray E Jones (Deceased) & Jean Jones
Robert Long

Date of Hearing/Closing: April 15, 2014

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:

3505 Beach Rd

The sign(s) were posted on March 26, 2014
(Month, Day, Year)

Sincerely,

March 26, 2014

(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)

THE BALTIMORE SUN MEDIA GROUP

Baltimore, Maryland 21278-0001

March 27, 2014

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 March 25, 2014

☐ The Jeffersonian

THE BALTIMORE SUN MEDIA GROUP

By: Susan Wilkinson

Susan Wilkinson

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: #2014-0172-A
3505 Beach Road
E/s Beach Road at the distance of 245 ft. s/of centerline of Seneca Park Road
15th Election District - 6th Councilmanic District
Legal Owner(s): Ray E. Jones (deceased) & Jean Jones
Contract Purchaser: Robert Long

Variance: to allow an area of 9,750 sq. ft. in lieu of the required 1 1/2 acres; to allow an open projection deck with a setback of 13 ft. in lieu of the required 37 1/2 ft.; to allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively. To allow a building coverage of 20% in lieu of the maximum required 15%; to allow any variances deemed necessary by the Administrative Law Judge.

Hearing: Tuesday, April 15, 2014 at 1:30 p.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 3/811 March 25 973286

KEVIN KAMENETZ
County Executive

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

April 9, 2014

Ms. Jean Jones
503 Elm Street
Conway SC 29526

RE: Case Number: 2014-0172 A, Address: 3505 Beach Road

Dear Ms. Jones:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on February 21, 2014. 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,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaf

Enclosures

c: People's Counsel
Robert Long, 3827 Annadale Road, Baltimore MD 21222

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

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: April 11, 2014

SUBJECT: DEPS Comment for Zoning Item # 2014-0172-A
Address 3505 Beach Road
(Jones Property)

Zoning Advisory Committee Meeting of March 10, 2014.

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. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

   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 permit a dwelling with a reduced rear yard setback, reduced deck setback, less building coverage, and less lot area than permitted. Lot coverage on the entirety of this property is limited to 31.25% (3046 square feet), with mitigation required for lot coverage above 25% (2437 square feet). Lot coverage information was not provided. 15% afforestation, or 3 trees, is required in the LDA; existing trees that will remain may be counted towards this requirement. If the applicant can meet the lot coverage requirements and the 15% afforestation requirements, the relief requested by the applicant will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

   This property is waterfront. If both lot coverage and afforestation requirements are met, that will help conserve fish, plant, and wildlife habitat in the Chesapeake Bay.

3. 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;

   Afforestation and lot coverage information were not included. Provided that the applicants meet all the requirements stated above, the relief requested will be consistent with established land-use policies.

   Reviewer: *Regina Esslinger – Environmental Impact Review (EIR)*

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: April 7, 2014

FROM: Andrea Van Arsdale
Director, Department of Planning

RECEIVED
APR 09 2014
OFFICE OF ADMINISTRATIVE HEARINGS

SUBJECT: 3505 Beach Road

INFORMATION:

Item Number: **14-172**

Petitioner: Jean Jones

Zoning: **RC 5**

Requested Action:

The petitioner is requesting relief for side yard and rear yard setbacks as well as a setback from the road centerline. Relief is also needed for the lot size, for an area of 9,750 square feet, in lieu of the required 1 ½ acres. Additionally, the building will cover 20% of the lot, as opposed to the maximum allowed 15%.

The subject site is at the very end of Seneca Park Road in an area with many narrow lots that have houses very close to one another. The dwelling proposed in this petition is similar in size and style to the surrounding houses. The petitioner has submitted architectural elevations along with photos of the subject site and the surrounding area.

This department has reviewed the submittals and finds the proposal to be in accordance with the spirit and intent of the performance standards listed within Section 1A04.4 of the Baltimore County Zoning Regulations. In sum, this office does not oppose the subject request.

Division Chief: _____
AVA/LL

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: March 20, 2014

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

SUBJECT: Zoning Advisory Committee Meeting
For March 20, 2014
Item No. 2014-0172

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comments.

The base flood elevation for this site is 10.2 feet [NAVD 88].

The flood protection elevation is 11.2. 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 14-0172-03172014.doc

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

SHA State Highway Administration
Maryland Department of Transportation

James T. Smith, Jr., *Secretary*
Melinda B. Peters, *Administrator*

Date: 3/17/14

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

RE: Baltimore County
Item No 2014-0172-A
Variance
Roy E. & Jean Jones
3505 Beach 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. 2014-0172-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,

Steven D. Foster, Chief/
Development Manager
Access Management Division

SDF/raz

PLEASE PRINT CLEARLY

CASE NAME 3505 Beach Road
CASE NUMBER 2014-0172-A
DATE 4/15/2014

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Bernadette Moskunas	200 E. Joppa Road Rm 401	Towson MD 21286	siteritc inc@aol.com
Robert Long	3827 Annandale Rd	Balto Md 21222	Covenantrealtygat MR.s .Com

PLEASE PRINT CLEARLY

CASE NAME 3505 Beach Road
CASE NUMBER 2014-0172-A
DATE 4-15-2014

CITIZEN'S SIGN - IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
Kevin Kauders	3507 Beach Rd.	Middle River MD. 21220	
Karl Kiesling	3503 Beach Rd	Middle River, MD. 21220	

Tammy McDiarmid - Fwd: Scanned From Copier

From: Tammy McDiarmid
To: covenantrealty@mris.com
Date: 5/27/2014 11:16 AM
Subject: Fwd: Scanned From Copier
Attachments: Scanned From Copier

Dear Mr. Long:

Pursuant to your request, enclosed please find a copy of the Appeal that was filed in Case No. 2014-0172-A. A hearing will be schedule at the earliest possible time, however, it will not be within 45 days.

Please let us know if we can be of further assistance.

Sincerely,

Tammy McDiarmid, Legal Secretary
Board of Appeals for Baltimore County
Jefferson Building
Second Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3180
(410) 887-3182 Fax

IN THE MATTER OF:

ROY E. JONES (DECEASED) AND JEAN JONES – LEGAL OWNER
ROBERT LONG – CONTRACT PURCHASER
CASE NUMBER: 14-172-A

Hearing Date: August 26, 2014

Pursuant to Notice, the above-entitled hearing was held before the Board of Appeals for Baltimore County at the Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204, commencing at 10:00 AM.

PANEL PRESIDING:

ANDREW M. BELT, CHAIRWOMAN

WAYNE R. GIOIOSO, JR., BOARD

RICHARD A. WISNER, BOARD

PRESENT ON BEHALF OF THE PARTIES:

ON BEHALF OF THE APPELLEES/PETITIONER:

PRO SE

ON BEHALF OF THE APPELLANTS/PROTESTANTS:

PRO SE

Christine R. Leary
9529 Fox Farm Road
Baltimore, Maryland 21236

IN THE MATTER OF:

ROY E. JONES (DECEASED) AND JEAN JONES – LEGAL OWNER
ROBERT LONG – CONTRACT PURCHASER
CASE NUMBER: 14-172-A

Hearing Date: November 19, 2 014

Pursuant to Notice, the above-entitled hearing was held before the Board of Appeals for Baltimore County at the Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204, commencing at 10:00 AM.

PANEL PRESIDING:

ANDREW M. BELT, CHAIRMAN

RICHARD A. WISNER, BOARD

BENFRED B. ALSTON, BOARD

PRESENT ON BEHALF OF THE PARTIES:

ON BEHALF OF THE APPELLEES/PETITIONER:

PRO SE

ON BEHALF OF THE APPELLANTS/PROTESTANTS:

EDWARD C. COVAHEY, JR., ESQUIRE
BRUCE EDWARD COVAHEY, ESQUIRE

Christine R. Leary
9529 Fox Farm Road
Baltimore, Maryland 21236

IN THE MATTER OF:

ROY E. JONES (DECEASED) AND JEAN JONES – LEGAL OWNER
ROBERT LONG – CONTRACT PURCHASER
CASE NUMBER: 14-172-A

Hearing Date: January 5, 2015

Pursuant to Notice, the above-entitled hearing was held before the Board of Appeals for Baltimore County at the Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204, commencing at 10:00 AM.

PANEL PRESIDING:

ANDREW M. BELT, CHAIRWOMAN

RICHARD A. WISNER, BOARD

BENFRED B. ALSTON, BOARD

PRESENT ON BEHALF OF THE PARTIES:

ON BEHALF OF THE APPELLEES/PETITIONER:

LAWRENCE E. SCHMIDT, ESQUIRE

ON BEHALF OF THE APPELLANTS/PROTESTANTS:

EDWARD C. COVAHEY, JR., ESQUIRE
BRUCE EDWARD COVAHEY, ESQUIRE

Christine R. Leary
9529 Fox Farm Road
Baltimore, Maryland 21236

Case No: 14-172-A Case Name: Jones / Long

Exhibit List

Party: Petitioners Date: 1-5-15

Exhibit No:	Description:
Pet. 1	Drawing by Site Right Surveying
2	Neighborhood Plat "1926"
3	Boundry Survey "1990" w/dwelling
4	Jones Deed - 3505 Beach Rd.
5	Title Examination "1980"
6	Property Conveyance "1973"
7	" " "1934"
8	Variance Relief for Kevin Kanders
9a,b,c	DSAT
10a-p	Photo's
11	County Comments
12a+b	House elevations
13	Photo of cars owned by Kresling
	VERIFIED BY KC DATE: 1/6/15

Petitioner's No4

032617 407

FILE NAME: JONES, ROY E.
FILE NO. : 08-7666

TAX ID# : 15-02-201030
PROPERTY: 3505 Beach Road
Baltimore, Md. 21220

NO CONSIDERATION, NO TITLE SEARCH, NO TRANSFER TAXES OR DOCUMENTARY STAMPS

NO TITLE SEARCH REQUESTED

THIS DEED, Made this 2nd of October, 2012, by and between **JEAN MARIE JONES** and **LEROY ERNEST JONES, JR.**, Co-Personal Representatives of the Estate of **ROY E. JONES**, also known as **LEROY JONES**, parties the first part, and **JEAN MARIE JONES**, party of the second part.

WHEREAS, the said **ROY E. JONES**, also known as **LEROY JONES**, died on the 25th day of February, 2008; and

WHEREAS, the said **JEAN MARIE JONES** and **LEROY ERNEST JONES, JR.** were appointed Co-Personal Representatives of the Estate of **ROY E. JONES**, also known as **LEROY JONES**, and duly qualified in the Orphans Court for Baltimore County, Estate No.: 160311; and

WHEREAS, the said **JEAN MARIE JONES** being a legatee under the decedent's Last Will and Testament, has had distributed to her the property hereinafter described pursuant to the Third and Final Administration Account; and

WHEREAS, the said Co-Personal Representatives as aforesaid of the Estate of **ROY E. JONES**, also known as **LEROY JONES**, pursuant to the provisions of the Annotated Code of Maryland, Estates and Trusts Article, execute and deliver this Deed as evidence of the distributee's title to said real estate.

NOW, THEREFORE, in consideration of the premises and for no actual monetary consideration, the said **JEAN MARIE JONES** and **LEROY ERNEST JONES, JR.**, Co-Personal Representatives of the Estate of **ROY E. JONES**, also known as **LEROY JONES**, parties of the first part, do grant and convey unto **JEAN MARIE JONES**, party of the second part, her personal representatives and assigns, in fee simple, all that lot of ground situate in the 15th Election District of Baltimore County, Maryland, and described as follows:

BEGINNING FOR THE SAME and being known as Lot No. 47 fronting on the water of Seneca Creek in the water front section of Seneca Park as shown on a Revised Plat of Seneca Park Beach filed among the Land Records of Baltimore County in Plat Book WPC No. 8, folio 45 &c with the use of the Street or Boulevard in the rear of said lots and all streets and avenues communicating therewith in common.

BEING the firstly described lot of ground which by Deed dated May 2, 1980 and recorded among the Land Records of Baltimore County in Liber EHK, Jr. No. 6162, folio 663, was granted and assigned by Roy E. Jones and Betty Lou Jones, to Roy E. Jones. The said Roy E. Jones was also known as Leroy Jones. The said Roy E. Jones, also known as Leroy Jones, died on February 25, 2008. The said Jean Marie Jones and Leroy Ernest Jones, Jr., were appointed Co-Personal Representatives of the Estate of Roy E. Jones, also known as Leroy Jones, by the Register of Wills for Baltimore County on September 17, 2010 (See Estate Number 160311).

TOGETHER with the buildings and improvements thereupon erected, made or being, and all and every the rights, alleys, ways, waters,privileges, appurtenances and advantages, to the same belonging, or anywise appertaining.

TO HAVE AND TO HOLD the said lot of ground and premises, above described and mentioned and hereby intended to be conveyed, unto and to the proper use and benefit of the said **JEAN MARIE JONES**, party of the second part, her personal representatives and assigns, in fee simple.

WITNESS, the hands and seals of the said grantors.

Witness

Jean Marie Jones (SEAL)
JEAN MARIE JONES
Personal Representative
of the Estate of **ROY E. JONES**
also known as **LEROY JONES**

Witness

Leroy Ernest Jones Jr. (SEAL)
LEROY ERNEST JONES, JR.
Personal Representative
of the Estate of **ROY E. JONES**
also known as **LEROY JONES**

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, that on this 2nd day of October, 2012, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared **JEAN MARIE JONES**, Personal Representative of the Estate of **ROY E. JONES**, also known as **LEROY JONES**, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within document, who acknowledged the foregoing to be her act.

AS WITNESS, my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

ALFRED L. BRENNAN, JR.
NOTARY PUBLIC
BALTIMORE COUNTY, MD
My Commission Expires December 5, 2015

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, that on this 2nd day of October, 2012, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared **LEROY ERNEST JONES, JR.**, Personal Representative of the Estate of **ROY E. JONES**, also known as **LEROY JONES**, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within document, who acknowledged the foregoing to be his act.

AS WITNESS, my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

ALFRED L. BRENNAN, JR.
NOTARY PUBLIC
BALTIMORE COUNTY, MD
My Commission Expires December 5, 2015

THIS IS TO CERTIFY that the within instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

ALFRED L. BRENNAN, JR., Attorney

AFTER RECORDATION, RETURN TO:

Brennan and Brennan
Attorneys At Law, P.A.
825 Eastern Boulevard
Baltimore, Maryland 21221
410-687-3434

F:\USERS\BEG\ESTATES\A Open Estates\Jones,Roy\DEEDS.DISTRIBUTION\3505BEACH.ROAD.wpd

032617 411

2012
MARYLAND
FORM

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor

ESTATE OF ROY E. JONES, ALSO KNOWN AS LEROY JONES

2. Reasons for Exemption

Resident Status	☐ I, Transferor, am a resident of the State of Maryland. ☑ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR) 03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 and is recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

Name

Signature

3b. Entity Transferors

Witness/Attest

ESTATE OF ROY E. JONES, A/K/A LEROY JONES
Name of Entity

By Jean Marie Jones

JEAN MARIE JONES
Name

Personal Representative
Title

12-49

2012
MARYLAND
FORM

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor

ESTATE OF ROY E. JONES, ALSO KNOWN AS LEROY JONES

2. Reasons for Exemption

Resident Status

☐ I, Transferor, am a resident of the State of Maryland.

☑ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR) 03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence

☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 and is recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

Name

Signature

3b. Entity Transferors

Witness/Attest

ESTATE OF ROY E. JONES, A/K/A LEROY JONES
Name of Entity

By Leroy Ernest Jones Jr.

LEROY ERNEST JONES, JR.
Name

Personal Representative
Title

12-49

03261 413

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☑ County: _____

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

Space Reserved for Recording Validation

CHP FD SURE 40.00
RECORDING FEE 20.00
TOTAL 60.00
Rcpt BA01 Rcpt # 72352
JLE TD Blk # 365
Oct 02, 2012 12:02 PM

1 Type(s) of Instruments (☐ Check Box if addendum Intake Form is Attached.)

x Deed / Deed of Trust	☐ Mortgage / Lease	☐ Other _____	☐ Other _____

2 Conveyance Type Check Box

☐ Improved Sale Arms-Length [1]	☐ Unimproved Sale Arms-Length [2]	☐ Multiple Accounts Arms-Length [3]	☐ Not an Arms-Length Sale [9]

3 Tax Exemptions (if applicable) Cite or Explain Authority

Recordation	
State Transfer	
County Transfer	

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	$ 0.00	Transfer Tax Consideration	$
Any New Mortgage	$	X ( )% =	$
Balance of Existing Mortgage	$	Less Exemption Amount –	$
Other:	$	Total Transfer Tax =	$
Other:	$	Recordation Tax Consideration	$
		X ( ) per $500 =	$
Full Cash Value:	$	TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 20.00	$
Surcharge	$ 40.00	$
State Recordation Tax	$	$
State Transfer Tax	$	$
County Transfer Tax	$	$
Other	$	$
Other	$	$

Agent:
Tax Bill:
C.B. Credit:
Ag. Tax/Other:

6 Description of Property

SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
15TH	15-02-201030	6162/663			☐ (5)

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)
Revised Plat of Seneca Park Beach	Lot 47			WPC 8/45	

Location/Address of Property Being Conveyed (2): 3505 Beach Road, Baltimore, Maryland 21220

Other Property Identifiers (if applicable): | Water Meter Account No.:

Residential ☑ or Non-Residential ☐ | Fee Simple ☑ or Ground Rent ☐ | Amount: $

Partial Conveyance? ☐ Yes ☑ No | Description/Amt. of SqFt/Acreage Transferred:

If Partial Conveyance, List Improvements Conveyed:

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
Jean Marie Jones and Leroy Ernest Jones, Jr., Co-Personal	
Representatives of the Estate of Roy E. Jones	
Doc. 1 – Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 – Owner(s) of Record, if Different from Grantor(s)**

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
Jean Marie Jones	

New Owner's (Grantee) Mailing Address: 503 Elm Street, Conway, South Carolina 29526

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 – Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: Alfred L. Brennan, Jr., Esquire
Firm Brennan and Brennan, Attorneys At Law, P.A.
Address: 825 Eastern Boulevard
Baltimore, Maryland 21221 Phone: (410) 687-3434

☑ Return to Contact Person
☐ Hold for Pickup
☐ Return Address Provided

11 IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information

☐ Yes ☑ No Will the property being conveyed be the grantee's principal residence?
☐ Yes ☑ No Does transfer include personal property? If yes, identify: _____
☐ Yes ☑ No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Space Reserved for County Validation

Assessment Use Only – Do Not Write Below This Line

Terminal Verification | Agricultural Verification | Whole | Part | Tran. Process Verification
Transfer Number | Date Received: | Deed Reference: | Assigned Property No.:

Year	20	Geo.	Map	Sub	Block	
Land		Zoning	Grid	Plat	Lot	
Buildings		Use	Parcel	Section	Occ. Cd.	
Total		Town Cd.	Ex. St.	Ex. Cd.		

TAX NOT REQUIRED
Director of Budget and Finance
BALTIMORE COUNTY, MARYLAND

REMARKS:
☐ COUNTY TRANSFER TAX Per _____ ART 11 TITLE 3 SUBTITLE 2, 11-3-202
☐ RECORDATION TAX Per _____ T.P. ART 12-108
Date 10-02-12

Distribution: White – Clerk's Office; Pink – Office of Finance; Canary – SDAT; Goldenrod – Preparer

AOC-CC-300 (5/2007)

LIBER 6162 FOLIO 663

Baltimore Co
Exempt

NO TITLE EXAMINATION - NO CONSIDERATION

THIS DEED, Made this 2nd day of May, 1980, by and between ROY E. JONES and BETTY LOU JONES, of Baltimore County, State of Maryland, parties of the first part, and, ROY E. JONES, party of the second part.

WITNESSETH, that in consideration of the sum of One Dollar ($1.00) and other good and valuable considerations, the said parties of the first part do hereby grant and convey, in fee simple, as to firstly, secondly, thirdly, fourthly and fifthly described properties, and assign, as to sixthly, seventhly, eighthly, ninthly, tenthly and eleventhly described properties subject to the respective leasehold rents hereinafter referred to, unto the said party of the second part, his personal representatives, heirs and assigns, all those lots of ground, situate, lying and being in the County of Baltimore, State of Maryland, and described as follows, that is to say:

BEGINNING FOR THE FIRST and beginning for the same and being known as Lot No. 47 fronting on the water of Seneca Creek in the water front section of Seneca Park as shown on a Revised Plat of Seneca Park Beach filed among the Land Records of Baltimore County in Plat Book WPC No. 8 folio 45 &c with the use of the Street or Boulevard in the rear of said lots and all streets and avenues communicating therewith in common.

BEING the same property which by Deed dated October 10, 1973 recorded among the Land Records of Baltimore County in Liber EHKJr. No. 5403 folio 360 was granted and conveyed by Theodore A. Bechtel, Personal Representative of the Estate of Cornelia Bechtel, unto Roy E. Jones and Betty Lou Jones, his wife, in fee simple, forever.

BEGINNING FOR THE SECOND and beginning for the same at the corner formed by the intersection of the southeasternmost side of Eastern Avenue and the northeasternmost side of Harrison Avenue, as now laid out, and running thence southeasterly along the northeasternmost side of Harrison Avenue 125 feet to a point, and thence northeasterly at right angles to Harrison Avenue to the easternmost outline of the whole tract, which by Deed dated February 19, 1942, recorded among the Land Records of Baltimore County in Liber C.H.K. No. 1212, folio 496, was granted and conveyed by Anna R. Helldorfer to Henry D. Volz and wife, of which this lot of ground is a part, and thence binding on the first line of said tract in a northeasterly direction to the end thereof, thence binding on the second, third, fourth and fifth lines of said tract, viz: South 34 degrees 00 minutes West 43.42 feet, North 80 degrees 9 minutes West 51.68 feet, North 9 degrees 40 minutes East 44.66 feet and continuing South 61 degrees 5 minutes West 194.11 feet to a point, thence continuing on the sixth line of the aforesaid tract and the southeasternmost side

E. M. SNYDER
ATTORNEY AT LAW
SUITE 310
BUILDING

-1-

TRANSFER TAX NOT REQUIRED
RANDOLPH B. ROMENDRANTZ
DIRECTOR OF FINANCE
BALTIMORE COUNTY, MARYLAND
Per Doris J. Collins
ASSESSED ZONING
5-5-80 Bill-B-A

of Eastern Avenue in a southwesterly direction to the northeasternmost side of Harrison Avenue, the place of beginning. The improvements thereon being known as No. 2211 Eastern Avenue.

BEING the same property which by Deed dated January 31, 1975 recorded among the Land Records of Baltimore County in Liber EHKJr. No. 5506 folio 303 was granted and conveyed by Cecil C. Tennant unto Roy E. Jones and Betty Lou Jones, in fee simple, forever.

BEGINNING FOR THE THIRD and being known and designated as Lots Nos. 32, 33, 34 and 35 as shown on the plat of Eddlynch, which plat is recorded among the Plat Records of Baltimore County in Plat Book 9 folio 17, each lot fronting 25 feet on the South side of Wise Avenue, with an even rectangular depth of 212 feet. The improvements thereon being known as 7829 Wise Avenue.

BEING the same property which by Deed dated October 14, 1976 recorded among the Land Records of Baltimore County in Liber EHKJr. No. 5687 folio 438 was granted and conveyed by Ruby D. Michael now known as Ruby D. Bauer unto Roy E. Jones and Betty Lou Jones, in fee simple, forever.

BEGINNING FOR THE FOURTH and being known as Lot No. 134, as shown on the Plat of the property of Middleborough Land Corporation of Baltimore County, which Plat is duly recorded among the Land Records of Baltimore County in Plat Book W.P.C. No. 4 folio 91. The improvements thereon being known as No. 341 Worton Road.

BEING the same property which by Deed dated October 25, 1976 recorded among the Land Records of Baltimore County in Liber EHKJr. No. 5689 folio 588 was granted and conveyed by Lelia R. Carico unto Roy E. Jones and Betty Lou Jones, in fee simple, forever.

BEGINNING FOR THE FIFTH and beginning for the same and being known as Lot No. 3 on the Plat of Seneca Park Beach and recorded among the Plat Records of Baltimore County in Liber W.P.C. No. 7 folio 188 &c, and being also known as Lot No. 3 on the revised Plat of Seneca Park Beach recorded among the Plat Records of Baltimore County in Liber W.P.C. No. 8 folio 45.

BEING the same property which by Deed dated July 19, 1977 recorded among the Land Records of Baltimore County in Liber EHKJr. No. 5782 folio 115 was granted and conveyed by Earl E. Tuttle and Bertha Elizabeth Tuttle, his wife, unto Roy E. Jones and Betty Lou Jones, in fee simple, forever.

BEGINNING FOR THE SIXTH and beginning for the same and being known and designated as Lot No. 39, Block J, as shown on the plat entitled "Amended Plat 1 Maplecrest" as recorded among the Plat Records of Baltimore County in Plat Book GLB No. 25 folio 65. The improvements thereon being known as No. 9737 Matzon Road.

BEING the same property which by Deed dated July 11, 1972 recorded among the Land Records of Baltimore County in Liber EHKJr. No. 5283 folio 944 was granted and assigned by Donald Needle, Substituted Trustee, unto Roy E. Jones and Betty Lou Jones.

Subject to the payment of the annual rent of $120.00 payable on the 16th days of June and December in each and every year.

LEE M. SNYDER
ATTORNEY AT LAW
SUITE 310
UNION TRUST BUILDING
PIKESVILLE, MD 21208
653-1990

BEGINNING FOR THE SEVENTH and beginning for the same at a point on the southwest side of Stemmers Run Road, as now widened, at the distance of 73.50 feet as measured north 50 degrees 27 minutes 00 seconds west along the southwest side of said Stemmers Run Road from the point of intersection thereof by the northwest side of Welbrook Road, 60 feet wide, said beginning point being at the division line between Lots 8 and 9 as shown on the Subdivision Plat of "Welbrook", as recorded among the Land Records of Baltimore County in Plat Book GLB No. 18, folio 44, running thence from said beginning point binding on said division line and passing through the center of the party wall between the house on the lot now being described known as 247 Stemmers Run Road and the house adjacent to the southeast known as No. 245 Stemmers Run Road, south 42 degrees 19 minutes 00 seconds West 126.24 feet, in all, to the northeast side of a 16-foot alley, as shown on said Plat, thence binding on the northeast side of said 16-foot alley with the use thereof in common with others, north 47 degrees 41 minutes 00 seconds West 16.00 feet, thence continuing on the outlines of said Lot 9, passing through the center of the party wall between said house on the lot now being described and the house adjacent to the northwest known as No. 249 Stemmers Run Road, north 42 degrees 19 minutes 00 seconds east 125.47 feet to the southwest side of Stemmers Run Road, thence binding on the southwest side of said Stemmers Run Road south 50 degrees 27 minutes 00 seconds East 16.02 feet to the place of beginning. Being known and designated as Lot No. 9, as shown on the Plat of Welbrook, which Plat is recorded among the Land Records of Baltimore County in Plat Book GLB No. 18 folio 44. The improvements thereon being known as No. 247 Stemmers Run Road.

BEING the same property which by Deed dated April 2, 1975 recorded among the Land Records of Baltimore County in Liber EHKJr. No. 5518 folio 804 was granted and assigned by Robert T. Sutt and Frances A. Sutt, his wife, unto Roy E. Jones and Betty Lou Jones.

Subject to the payment of the annual rent of $96.00 payable on the 2nd days of March and September in each and every year.

BEGINNING FOR THE EIGHTH and being known and designated as Lot No. 16, Block 11 as shown on the Subdivision Plan, Section 1, Plat B, Middlesex, which Plat is recorded among the Plat Records of Baltimore County in Plat Book GLB 19 folio 34. The improvements thereon being known as 430 Torner Road.

BEING the same property which by Deed dated July 15, 1975 recorded among the Land Records of Baltimore County in Liber EHKJr. No. 5548 folio 228 was granted and assigned by David P. Heroux and Jeanette K. Heroux, his wife, unto Roy E. Jones and Betty Lou Jones.

Subject to the payment of the annual rent of $87.00 payable on the 7th days of June and December in each and every year.

BEGINNING FOR THE NINTH and beginning for the same on the northeast side of 52nd Street as laid out 60 feet wide at the distance of 175 feet measured northwesterly along the northeast side of 52nd Street from the northwest side of Gough Street as laid out 50 feet wide, said point of beginning being in line with the centerline of a partition wall there erected and running thence and binding on the northeast side of 52nd Street, north 24 degrees 32 minutes west 19 feet to a point in line with the centerline of another partition

M. SNYDER
ORNEY AT LAW
SUITE 310
UNION TRUST BUILDING
PIKESVILLE, MD 21208
663-1550

wall there erected, thence, to and through the center of said mentioned partition wall north 65 degrees 30 minutes east 120 feet to the southwest side of a 15 foot alley there laid out, thence binding on the southwest side of said 15 foot alley with the use thereof in common with others, south 24 degrees 32 minutes east 19 feet to a point in line with the center of the partition wall first herein referred to, thence to and through the center of said first mentioned partition wall, south 65 degrees 30 minutes west 120 feet to the place of beginning. The improvements thereon being known as No. 303 - 52nd Street.

BEING the same property which by Deed dated April 20, 1976 recorded among the Land Records of Baltimore County in Liber EHKJr. No. 5625 folio 367 was granted and assigned by George Nikolaou and Maria Nikolaou, his wife, unto Roy E. Jones and Betty Lou Jones.

Subject to the payment of the annual rent of $90.00 payable in equal half-yearly installments on the 1st days of May and November in each and every year.

BEGINNING FOR THE TENTH and being known and designated as Lot No. 61, Block 4, as shown on the Subdivision Plan, Section 2, Plat B, Middlesex, which Plat is recorded among the Land Records of Baltimore County in Plat Book GLB No. 19 folio 116. The improvements thereon being known as No. 1037 Middlesex Road.

BEING the same property which by Deed dated December 7, 1976 recorded among the Land Records of Baltimore County in Liber EHKJr. No. 5704 folio 946 was granted and assigned by Roger Brent Brown and Karen E. Brown, his wife, unto Roy E. Jones and Betty Lou Jones.

Subject to the payment of the annual rent of $87.00 payable on the 10th days of August and February in each and every year.

SUBJECT also, as to the Tenthly described lot, to the legal operation and effect of a Mortgage dated February 4, 1975 recorded among the Land Records of Baltimore County in Liber EHKJr. No. 5507 folio 111 from Roger Brent Brown and Karen W. Brown, his wife, to John W. Steele, III and Richard L. Cover, Trustees for James W. Rouse & Company, Incorporated.

BEGINNING FOR THE ELEVENTH and beginning for the same at a point on the south side of Wynbrook Road as laid out 50 feet wide said point being distant 313.02 feet measured easterly along said south side of Wynbrook Road from the intersection formed by the south side of Wynbrook Road and the east side of 53rd Street coordinates of said intersection being East 28,394.78 and South 114.09 as shown on a Plat entitled "Re-Subdivision Plan of Part One and Plat Two Eastwood Heights" dated January, 1955 which Plat is recorded among the Plat Records of Baltimore County in Plat Book GLB 21 folio 4, running thence binding on the south side of Wynbrook Road north 65 degrees 30 minutes East 18.00 feet to a point in line with the center line of a party wall between the house on the lot now being described and that adjoining on the east thence south 24 degrees 30 minutes east to and through the center of said party wall and continuing 102 feet in all to the north side of a 16 foot alley there situate thence binding on said north side of said 16 foot alley with the use thereof in common with others south 65 degrees 30 minutes west 18 feet to a point in line with the center line of the party wall between the

LEE M. SNYDER
ATTORNEY AT LAW
SUITE 310
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PIKESVILLE, MD. 21208
655-1550

house on the lot being described and that adjoining to the west thence north 24 degrees 30 minutes west to and through the center of said partition wall and continuing 102 feet in all to the place of beginning. Being designated as Lot No. 16 Block 3 as shown on the above-mentioned Plat of Eastwood Heights. The improvements thereon being known as 7931 Wynbrook Road.

BEING the same property which by Deed dated August 22, 1977 recorded among the Land Records of Baltimore County in Liber EHKJr. No. 5794 folio 533 was granted and assigned by Robert S. Duty, Jr. and Pamela M. Duty, his wife, unto Roy E. Jones and Betty Lou Jones.

Subject to the payment of the annual rent of $87.00 payable on the 1st days of May and November in each and every year.

SUBJECT to the legal operation and effect of various mortgages now recorded among the Land Records of Baltimore County covering one or more of the aforesaid properties, which mortgages are hereby assumed by the Grantee.

Together with the building and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or anywise appertaining.

TO HAVE AND TO HOLD the said lots of ground and premises to the said Roy E. Jones, his personal representatives, heirs and assigns, in fee simple, as to first, second, third, fourth and fifthly described lots of ground and premises, and, for all the residue of the term of years yet to come and unexpired therein with the benefit of renewal forever; subject to the payment of the annual rent of $120.00 payable on the 16th days of June and December in each and every year, as to sixthly described property; subject to the payment of the annual rent of $96.00 payable on the 2nd days of March and September in each and every year, as to seventhly described property; subject to the payment of the annual rent of $87.00 payable on the 7th days of June and December in each and every year, as to eighthly described property; subject to the payment of the annual rent of $90.00 payable on the 1st days of May and November in each and every year, as to ninthly described property; subject to the payment of the annual rent of $87.00 payable on the 10th days of February and August in each and every year, as to tenthly described property, and; subject to the payment of the annual rent of $87.00 payable on the 1st days of May and November in each and every year, as to eleventhly

M. SNYDER
TORNEY AT LAW
SUITE 310
UNION TRUST BUILDING
PIKESVILLE, MD 21208

described property.

AND the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

WITNESS the hands and seals of said Grantors.

WITNESS:

Roy E. Jones (SEAL)
ROY E. JONES

Betty Lou Jones (SEAL)
BETTY LOU JONES

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 2nd day of MAY, 1980, before me, the subscriber, a Notary Public of the State and COUNTY aforesaid personally appeared ROY E. JONES, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC

My Commission expires: 7/1/82

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 2nd day of MAY, 1980, before me, the subscriber, a Notary Public of the State of COUNTY aforesaid personally appeared BETTY LOU JONES, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purposes therein contained, and in my presence signed and sealed the same.

LEE M. SNYDER
ATTORNEY AT LAW
SUITE 310
UNION TRUST BUILDING
PIKESVILLE, MD. 21208
[illegible]

6162 669

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC

My Commission expires: 7/1/82

CS-8-A...
CS-8-A...

Rec'd for record MAY 8 1980 at
Per Elmer H. Kahline, Jr., Clerk
Mail to
Receipt No. $

E M. SNYDER
ATTORNEY AT LAW
SUITE 210
UNION TRUST BUILDING
PIKESVILLE, MD 21208

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LIBER 5403 PAGE 360

Detidence's
No 6

THIS DEED, made this 10th day of October in the year one thousand nine hundred and seventy-three, by and between THEODORE A. BECHTEL, Personal Representative of the estate of CORNELIA BECHTEL, deceased, of the first part and ROY E. JONES and BETTY LOU JONES, his wife, and of the second part,

WHEREAS, the said CORNELIA BECHTEL died on May 31, 1973, seized and possessed of the fee simple property known as lot no. 47 as shown on the revised plat of Seneca Park, as hereinafter described, and

WHEREAS, the said THEODORE A. BECHTEL has duly qualified as the Personal Representative of the estate in the Orphans' Court of Baltimore City (Estate No. A-3607) and pursuant to and in exercise of the power and authority granted in Article 93 Section 7-401 of the Annotated Code of Maryland, did bargain and sell by private sale the hereinafter described property to ROY E. JONES and BETTY LOU JONES at and for the sum of TWENTY_THREE THOUSAND DOLLARS ($23,000.00) and

WHEREAS, the said ROY E. JONES and BETTY LOU JONES have paid unto the said Personal Representative the full amount of said purchase price

NOW, THEREFORE, in consideration of the sum of TWENTY_THREE THOUSAND DOLLARS ($23,000.00), the receipt of which is hereby acknowledged, and by virtue and pursuant to the power and authority vested in him by law the said THEODORE A. BECHTEL, Personal Representative, does grant and assign unto ROY E. JONES and BETTY LOU JONES, his wife, as tenants by the entireties, their assigns and unto the survivor of them, his or her personal representatives or assigns, all that lot of ground lying in Baltimore County and more particularly described as follows:

BEGINNING for the same and being known as Lot No. 47 fronting on the water of Seneca Creek in the water front section of Seneca Park as shown on a revised plat of Seneca Park beach filed among the Land Records of Baltimore County in Plat Book WPC No. 8 folio 45 & c with the use of the Street or Boulevard in the rear of said lots and all streets and avenues communicating therewith in common

Also known as Lot 17 345.00 No.

BEING the same lot of ground which by deed dated June 4, 1934 and recorded among the Land Records of Baltimore County in Liber CWBJr No. 929 folio 586 was granted and conveyed to GEORGE K. BECHTEL and CORNELIA BECHTEL, his wife, the said BEORGE K. BECHTEL departed this life December 20, 1944, thereby vesting title in the said CORNELIA BECHTEL.

TO HAVE AND TO HOLD the aforesaid lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto appertaining or belonging unto and to the proper use and benefit of the said parties of the second part, as tenants by the entireties. Their assigns and unto the survivor of them, his or her heirs and assigns, in fee simple.

WITNESS the hand and seal of the said grantor.

WITNESS:

Theodore A. Bechtel (SEAL)
THEODORE A. BECHTEL, Personal Representative

Leroy H. List
LEROY H. LIST

STATE OF MARYLAND, County of Baltimore

On this 10th day of October, 1973, before me, the subscriber, a Notary Public of the State, personally appeared THEODORE A. BECHTEL, Personal Representative of the estate of CORNELIA BECHTEL, known to me or satisfactorily proven, to be the person whose name is subscribed to the within instrument and he acknowledged that he executed the same for the purposes therein contained and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and seal.

Leroy H. List
Notary Public

My commission expires
July 1, 1974

LEROY H. LIST NOTARY PUBLIC Baltimore County, Md.

Rec'd for record OCT 23 1973 at 9:32 M
for Elmer H. Kahline, Jr., Clerk
Mail to Leroy H. List
Receipt No. [illegible]

Petetoren's No 67

(Notarial Seal) Edna V Chaney
Notary Public

Recorded June 6 1934 at 3 P M and exd per C Willing Browne Jr Clerk

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24425) This Deed made this fourth day of June in the year one thous-
Mary Siejack & Hus) and nine hundred and thirty four by and between Mary Siejack
Deed To) and John Siejack her husband of Baltimore City in the State
George K Bechtel & Wife) of Maryland of the f irst part and George K Bechtel and
U S Rev Stamps $2.00) Cornelia Bechtel his wife of the same place of the second
) part

REC'D FOR RECORD AUG 21 1934

Witnesseth that in consideration of the sum of five dollars and other good and Valuable considerations the receipt whereof is hereby acknowledged the said Mary Siejack and John Siejack her husband do grant and convey unto the said George K Bechtel and Cornelia Bechtel his wife their heirs and assigns in fee simple all that lot of ground situate lying and being in Baltimore County and State aforesaid and described as follows that is to say Lot No 47 fronting on the water of Seneca Creek in the water front section of Seneca Park as shown on a revised plat of Seneca Park beach filed among the Land Records of Baltimore County in Plat Book W P C No 8 folio 45 &c with the use of the Street or Boulevard in the rear of said lots and all streets and avenues communicating therewith in Common

Being all and the same lot of ground which by deed dated July 14 1926 and recorded among the Land Records of Baltimore County in Liber W P C No 635 folio 230 was conveyed by Alma Frayser et al to Mary Siejack in fee simple

Together with the buildings and improvements thereupon erected made or being and all and every the rights appurtenances alleys ways waters privileges and advantages to the same belonging or anywise appertaining

To have and to hold the said lot of ground and premises above described and mentioned and hereby intended to be conveyed together with the rights privileges appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said George K Bechtel and Cornelia Bechtel his wife their heirs and assigns in fee simple Subject however to the restrictions set out in the hereinbefore mentioned deed from Alma Frayser et al to Mary Siejack

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act matter or thing whatsoever to encumber the property hereby conveyed that they will warrant specially the property granted and that they will execute such further assurances of the same as may be requisite

Witness the hands and seals of the said grantors

Test

Robert R Portmess

Mary Siejack (Seal)

John Siejack (Seal)

State of Maryland City of Baltimore To Wit

I hereby certify that on this 4th day of June in the year one thousand nine hundred and thirty four before me the subscriber a Notary Public of the State of Maryland in and for the City of Baltimore aforesaid personally appeared Mary Siejack and John Siejack her husband the above named grantors and they acknowledged the foregoing Deed to be their act

As Witness my hand and Notarial Seal

(Notarial Seal)

Robert R Portmess
Notary Public

Recorded June 6 1934 at 3 P M and exd per C Willing Browne Jr Clerk

from folio 296
May 10 1935
For value receive we do hereby release the within mortgage
As Witness the hand of our President and Secretary hereunto affixed the day and year first above written
M L Kann — National Homeowners Service Corporation
Secretary (Corporate seal) By Lee L Dopkin President
Recorded May 14 1935 at 3.45 P M and rec per C Willing Browne Jr Clerk

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from folio 107
Baltimore Maryland November 3 1936 For value received the Central Credit Finance Corporation hereby releases the within and aforegoing mortgage
As Witness the signature of J M Sweren President of the said body corporate and its corporate seal hereto affixed and duly attested
Attest — Central Credit Finance Corporation
Nancy M Thompson (Corporate seal) By J M Sweren President
Recorded Nov 7 1936 at 8.30 A M and rec per C Willing Browne Jr Clerk

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Petitioners
do
8

IN RE: PETITION FOR ADMIN. VARIANCE
S/S Beach Road, 189' SW of the c/l
Seneca Park Road
(3507 Beach Road)
15th Election District
6th Council District

Kevin Kanders & Anne Franey
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 05-286-A
*

* * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, Kevin Kanders and Anne Franey. The Petitioners request variance relief from Sections 1A04.3.B.2.6 and 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing garage addition with a side yard setback of 2 feet in lieu of the required 50 feet and a total building coverage of as much as 16% in lieu of the maximum allowed 15%. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

The Petition was filed through the administrative variance process, pursuant to Section 32-3-303 of the Baltimore County Code. That Section allows an individual to seek variance relief for an owner-occupied residential property without the need for a public hearing. Under the Code, the property in question is posted for a period of 15 days during which time any property owner residing within 1,000 feet of the property may demand a public hearing for a determination as to the merits of the request. Additionally, the Zoning Commissioner/Deputy Zoning Commissioner can schedule the matter for a public hearing if deemed appropriate. In this case, the Petitioners have filed the supporting affidavits as required by Section 32-3-303 (a)(2)(i) of the Baltimore County Code. The subject property having been posted and there being no requests for a public hearing, a decision shall be rendered based upon the documentation contained within the case file.

ORDER RECEIVED FOR FILING
Date 1/6/05
By

Based upon the testimony and evidence presented, I am persuaded to grant the requested relief. It was indicated that the dwelling on the subject property suffered significant damage during Hurricane Isabel and that subsequent improvements included enclosing an existing attached carport, identified on the site plan as a 12' x 20' "garage addition." Due to the location of the existing dwelling, the garage addition is located 2 feet from the side property line. The R.C.5 zoning regulations require a minimum setback of 50 feet to any side property line. Moreover, the area of impervious surfaces on the property now equals 16% of the total square footage of the site in lieu of the maximum allowed 15%. Given the narrow width of the property (52 feet) at the front building line and the fact that the dwelling has existed on the property where located for many years, it is clear that a practical difficulty and unreasonable hardship would result if the relief requested were denied. There were no adverse comments submitted by any County reviewing agency, and documentation within the case file indicates the neighbors support the request. Thus, it appears that relief can be granted without detrimental impact to the health, safety or general welfare of the surrounding locale. However, due to the property's waterfront location and its location within a floodplain, the Petitioners shall comply to the extent possible with any recommendations made by the Department of Environmental Protection and Resource Management (DEPRM) and the Development Review Division of the Department of Permits and Development Management.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 18th day of January 2005 that the Petition for Administrative Variance seeking relief from Sections 1A04.3.B.2.6 and 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing garage addition with a side yard setback of 2 feet in lieu of the required 50 feet and a total building coverage of as much as 16% in lieu of the maximum allowed 15%, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) Compliance with the ZAC comments submitted by DEPRM and the Development Plans Review division of DPDM relative to Chesapeake Bay Critical Areas regulations and all other appropriate environmental, floodplain and B.O.C.A. regulations relative to the protection of water quality, streams, wetlands and floodplains. Copies of those comments have been attached hereto and are made a part hereof.

3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

WJW:bjs

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 1/8/16
By

Ref. 9A

Real Property Data Search (w1) Search Help

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Account Identifier: District - 15 Account Number - 1502201030

Owner Information

Owner Name:	JONES JEAN MARIE	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	503 ELM ST CONWAY SC 29526-	**Deed Reference:**	1) /32617/ 00407 2)

Location & Structure Information

Premises Address:	3505 BEACH RD 0-0000 Waterfront 21220	**Legal Description:**	REAR 250 FT 1720 E SENECA PARK RD SENECA PARK BEACH

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0091	0017	0139		0000			47	2012	Plat Ref:	0008/ 0045

Special Tax Areas: Town: NONE
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
			8,750 SF	34

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation

Value Information

	Base Value	Value As of 01/01/2012	Phase-in Assessments As of 07/01/2013	As of 07/01/2014
Land:	176,700	176,700		
Improvements	0	0		
Total:	176,700	176,700	176,700	176,700
Preferential Land:	0			0

Transfer Information

Seller: JONES ROY E	Date: 10/02/2012	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /32617/ 00407	Deed2:
Seller: JONES ROY E	Date: 05/07/1980	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /06162/ 00663	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2013	07/01/2014
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Tax Exempt: Special Tax Recapture:
Exempt Class: NONE

Homestead Application Information

Homestead Application Status: No Application

1. This screen allows you to search the Real Property database and display property records.
2. Click here for a glossary of terms.
3. Deleted accounts can only be selected by Property Account Identifier.
4. While we have confidence in the accuracy of these records, the Department makes no warranties, expressed or implied, regarding the information.

RecB 93

Real Property Data Search (w2)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Account Identifier: District - 15 Account Number - 1519074150

Owner Information

Owner Name:	KAUDERS KEVIN W FRANEY ANNE F	**Use:** **Principal Residence:**	RESIDENTIAL YES
Mailing Address:	3507 BEACH RD BALTIMORE MD 21220-2319	**Deed Reference:**	/14488/ 00217

Location & Structure Information

Premises Address:	3507 BEACH RD BALTIMORE 21220-2319 Waterfront	**Legal Description:**	3507 BEACH RD SENECA PARK BEACH

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0091	0017	0139		0000			48	2015	Plat Ref:	0008/ 0045

Special Tax Areas:

Town: NONE
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
1947	1,814 SF		8,500 SF	34

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
2	NO	STANDARD UNIT	SIDING	2 full	1 Attached	

Value Information

	Base Value	Value As of 01/01/2012	Phase-in Assessments As of 07/01/2014	As of 07/01/2015
Land:	259,500	259,500		
Improvements	125,100	125,100		
Total:	384,600	384,600	384,600	
Preferential Land:	0			

Transfer Information

Seller: FEDERAL NATIONAL MORTGAGE	Date: 05/25/2000	Price: $141,900
Type: NON-ARMS LENGTH OTHER	Deed1: /14488/ 00217	Deed2:
Seller: GOSNELL NELSON M	Date: 09/08/1999	Price: $120,375
Type: NON-ARMS LENGTH OTHER	Deed1: /14013/ 00508	Deed2:
Seller: LANG MILTON A	Date: 10/21/1987	Price: $112,900
Type: ARMS LENGTH IMPROVED	Deed1: /07703/ 00614	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2014	07/01/2015
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00	0.00

Tax Exempt:
Exempt Class:

Special Tax Recapture: NONE

Homestead Application Information

Homestead Application Status: Approved 11/01/2008

1. This screen allows you to search the Real Property database and display property records.
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3. Deleted accounts can only be selected by Property Account Identifier.

Real Property Data Search (w2)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Account Identifier: District - 15 Account Number - 1515004120

Owner Information

Owner Name:	KIESLING KARL KIESLING KARL GENE	**Use:** **Principal Residence:**	RESIDENTIAL YES
Mailing Address:	3503 BEACH RD BALTIMORE MD 21220-2319	**Deed Reference:**	/21765/ 00513

Location & Structure Information

Premises Address:	3503 BEACH RD 0-0000 Waterfront	**Legal Description:**	3503 BEACH RD SENECA PARK BEACH

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0091	0017	0139		0000			46	2015	Plat Ref:	0008/ 0045

Special Tax Areas:

Town: NONE
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
2006	3,752 SF		9,650 SF	34

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
2	YES	STANDARD UNIT	SIDING	2 full/ 1 half	1 Attached	

Value Information

	Base Value	Value As of 01/01/2012	Phase-in Assessments As of 07/01/2014	As of 07/01/2015
Land:	259,500	259,500		
Improvements	336,500	336,500		
Total:	596,000	596,000	596,000	
Preferential Land:	0			

Transfer Information

Seller: KIESLING KARL	Date: 04/25/2005	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /21765/ 00513	Deed2:
Seller: DIETZ DIANNE M	Date: 10/11/2001	Price: $240,000
Type: ARMS LENGTH IMPROVED	Deed1: /15647/ 00333	Deed2:
Seller: DIETZ DIANNE M	Date: 09/19/2000	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /14703/ 00159	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2014	07/01/2015
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00	0.00

Tax Exempt:
Exempt Class:

Special Tax Recapture: NONE

Homestead Application Information

Homestead Application Status: Approved 11/13/2013

1. This screen allows you to search the Real Property database and display property records.
2. Click **here** for a glossary of terms.
3. Deleted accounts can only be selected by Property Account Identifier.

10A

901

101

101

Lot

101

101

107

10

101

WOJ

6 x 9

Front of 3503 Beach Road

3505 Beach Rd


PETITIONER'S
EXHIBIT NO. #10
113 Feet
Environmental Map
Created By
Baltimore County
My Neighborhood
This data is only for general information purposes only. This data may be inaccurate or contain errors or omissions. Baltimore County, Maryland does not warrant the accuracy or reliability of the data and disclaims all warranties with regard to the data, including but not limited to, all warranties, express or implied, of merchantability and fitness for any particular purpose. Baltimore County, Maryland disclaims all obligation and liability for damages, including but not limited to, actual, special, indirect, and consequential damages, attorneys' and experts' fees, and court costs incurred as a result of, arising from or in connection with the use of or reliance upon this data.
10260
Printed 2/7/2014

Ref No 11

KEVIN KAMENETZ
County Executive

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

April 9, 2014

Ms. Jean Jones
503 Elm Street
Conway SC 29526

RE: Case Number: 2014-0172 A, Address: 3505 Beach Road

Dear Ms. Jones:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on February 21, 2014. 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,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaf

Enclosures

c: People's Counsel
Robert Long, 3827 Annadale Road, Baltimore MD 21222

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

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 19, 2014

SUBJECT: DEPS Comment for Zoning Item # 2014-0172-A
Address 3505 Beach Road
(Jones Property)

Zoning Advisory Committee Meeting of March 10, 2014.

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 the revised site plan dated December 15, 2014, we offer the following comments:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

   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 permit a dwelling with a reduced rear yard setback, reduced deck setback, less building coverage, and less lot area than permitted. A portion of the proposed house and deck fall within the 100-foot Critical Area buffer. Lot coverage on the entirety of this property is limited to 31.25% (3046 square feet), with mitigation required for lot coverage above 25% (2437 square feet). As shown on the plan, lot coverage information will be 23%. 15% afforestation, or 3 trees, is required in the LDA; existing trees that will remain may be counted towards this requirement. Five trees are shown to remain. The BMA requirements will be addressed through planting and/or fee-in-lieu mitigation. The applicant is proposing to meet lot coverage, afforestation, and BMA requirements, so the relief requested by the applicant will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

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

State Highway Administration
Maryland Department of Transportation

James T. Smith, Jr., *Secretary*
Melinda B. Peters, *Administrator*

Date: 3/17/14

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

RE: Baltimore County
Item No 2014-0172-A
Variance
Roy E. & Fern Jones
3505 Beach 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. 2014-0172-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,

Richard D. Zeller

for Steven D. Foster, Chief/
Development Manager
Access Management Division

SDF/raz

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: March 20, 2014

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

SUBJECT: Zoning Advisory Committee Meeting
For March 20, 2014
Item No. 2014-0172

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comments.

The base flood elevation for this site is 10.2 feet [NAVD 88].

The flood protection elevation is 11.2. 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 14-0172-03172014.doc

4/10/14
WCR

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: April 7, 2014

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 3505 Beach Road

INFORMATION:

Item Number: 14-172

Petitioner: Jean Jones

Zoning: RC 5

Requested Action:

The petitioner is requesting relief for side yard and rear yard setbacks as well as a setback from the road centerline. Relief is also needed for the lot size, for an area of 9,750 square feet, in lieu of the required 1 ½ acres. Additionally, the building will cover 20% of the lot, as opposed to the maximum allowed 15%.

The subject site is at the very end of Seneca Park Road in an area with many narrow lots that have houses very close to one another. The dwelling proposed in this petition is similar in size and style to the surrounding houses. The petitioner has submitted architectural elevations along with photos of the subject site and the surrounding area.

This department has reviewed the submittals and finds the proposal to be in accordance with the spirit and intent of the performance standards listed within Section 1A04.4 of the Baltimore County Zoning Regulations. In sum, this office does not oppose the subject request.

Division Chief: Lynn Lanham
AVA/LL

RECEIVED
APR 9 2014
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

Rear and Side View of 3505 Beach Road

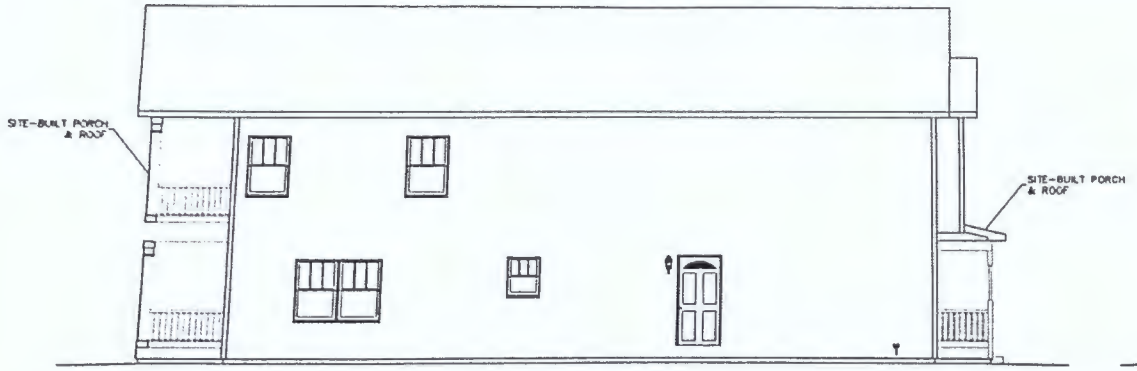
Pltf Ex 12 A

#3505 Beach Road
Proposed Replacement dwelling

- Vinyl siding
- Fiber glass shingle roofing
- Foundation will be a poured concrete foundation

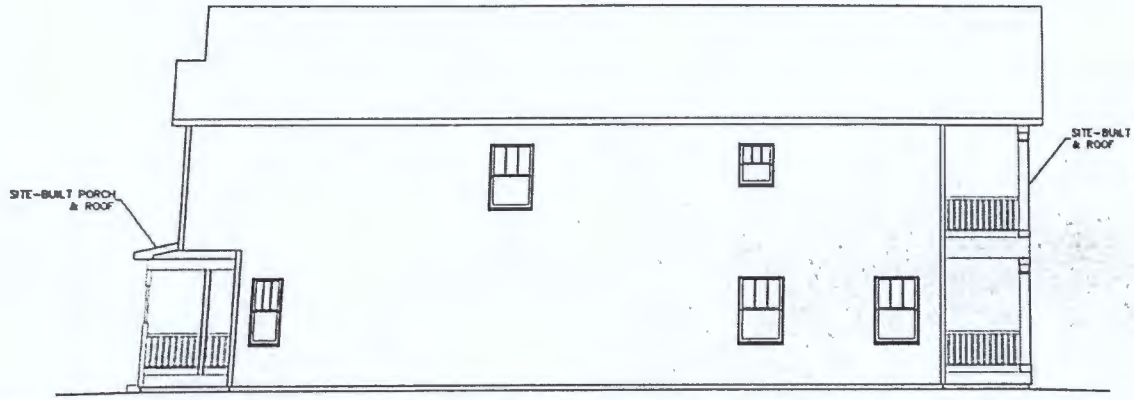
Pet 12 B

27'-4" WIDE 7/12 STORAGE W/12" OVERHANGS

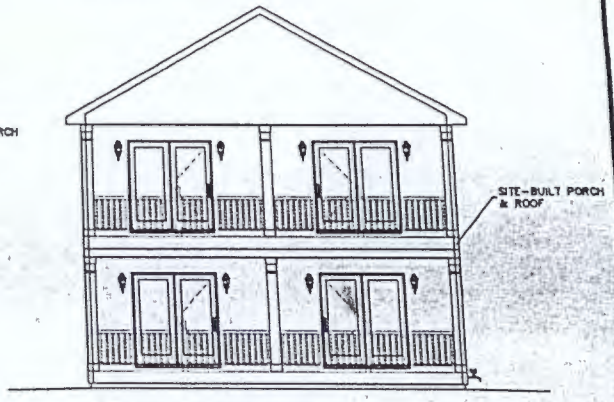


LEFT ELEVATION

FRONT ELEVATION



RIGHT ELEVATION



REAR ELEVATION

NOTES:
1. ALL NOTES STATING "IN FIELD" OR "BY OTHERS" ARE OBLIGATIONS PERTAINING TO THE DEALER, BUILDER, CUSTOMER, OR OWNER.
2. BASEMENT WINDOWS BY OWNER
3. ALL EXTERIOR LIGHTS ARE FACTORY SUPPLIED AND FIELD INSTALLED.
4. HINGE ROOF SYSTEMS REQUIRE FIELD COMPLETION.
5. FOOTINGS, FOUNDATION AND STEPS ARE SUPPLIED AND INSTALLED ON SITE BY OTHERS
6. GARAGE DOORS SUPPLIED AND INSTALLED ON SITE BY OTHERS
7. SADDLES BETWEEN UNITS OF THE SAME ROOF PITCH AND UNIT WIDTH WILL BE PANELIZED
8. ALL OTHER SADDLES BETWEEN UNITS WILL HAVE MATERIALS SHIPPED LOOSE FOR ON SITE CONTRUCTION.
9. SIDING FOR THE GABLE ENDS AND SECOND FLOOR OF 2-STORY IS SHIPPED LOOSE FOR FIELD INSTALLATION.
10. HANDRAILS STOOPS, DOWNSPOUTS AND GUTTERS ARE FURNISHED AND INSTALLED BY OTHERS IN ACCORDANCE WITH ALL STATE AND LOCAL CODES.
11. TERMINATION HEIGHT OF METAL CHIMNEYS WILL BE A MINIMUM OF 3'-0" ABOVE THE HIGHEST POINT WHERE THEY PASS THRU THE ROOF AND A MINIMUM OF 2'-0" HIGHER THAN ANY PORTION OF A BUILDING WITHIN 10'-0" (CHIMNEY WILL BE INSTALLED BY OTHERS ON SITE)

NO	DATE	REVISION / DESCRIPTION	BY

RITZ-CRAFT CORPORATION

STARTED:	DEALER:	SCALE: 1/8"=1'-0"	CO #:	
TO SALES:				
SALES:	CUSTOMER:	DRAWN BY:	SN:	
DATE:	RC REP:	CLT 2276 ELEVATIONS		
CONFIRM COMPLETE:				
PERMIT SET COMPLETE:	STATE:		SHEET #:	

Cars parked at 3505 Beach Road

Ex 13

Case No: 14-172-A Case Name: Jones/Long

Exhibit List

Party: Protestants Date: 1-5-15

Exhibit No:	Description:
✓ Pro.-1-8	Photo's by Carl Kiesling ± Oct, 2014
	VERIFIED BY KC DATE: 1/6/15

Real Property Data Search (w1) **Search Help**

Search Result for BALTIMORE COUNTY

View Map **View GroundRent Redemption** **View GroundRent Registration**

Account Identifier: District - 15 Account Number - 1515004120

Owner Information

Owner Name:	KIESLING KARL KIESLING KARL GENE	**Use:** **Principal Residence:**	RESIDENTIAL YES
Mailing Address:	3503 BEACH RD BALTIMORE MD 21220-2319	**Deed Reference:**	1) /21765/ 00513 2)

Location & Structure Information

Premises Address: 3503 BEACH RD
0-0000
Waterfront

Legal Description: 3503 BEACH RD
SENECA PARK BEACH

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0091	0017	0139		0000			46	2012	Plat Ref:	0008/ 0045

Special Tax Areas: **Town:** NONE
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
2006	3,752 SF		9,650 SF	34

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
2.000000	YES	STANDARD UNIT	SIDING	2 full/ 1 half	1 Attached	

Value Information

	Base Value	Value As of 01/01/2012	Phase-in Assessments As of 07/01/2013	As of 07/01/2014
Land:	319,500	259,500		
Improvements	400,100	336,500		
Total:	719,600	596,000	596,000	596,000
Preferential Land:	0			0

Transfer Information

Seller: KIESLING KARL	**Date:** 04/25/2005	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /21765/ 00513	**Deed2:**
Seller: DIETZ DIANNE M	**Date:** 10/11/2001	**Price:** $240,000
Type: ARMS LENGTH IMPROVED	**Deed1:** /15647/ 00333	**Deed2:**
Seller: DIETZ DIANNE M	**Date:** 09/19/2000	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /14703/ 00159	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2013	07/01/2014
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Tax Exempt: **Special Tax Recapture:**
Exempt Class: NONE

Homestead Application Information

Homestead Application Status: Approved 11/13/2013

1. This screen allows you to search the Real Property database and display property records.
2. Click **here** for a glossary of terms.
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Real Property Data Search (w1) Search Help

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Account Identifier: District - 15 Account Number - 1502201030

Owner Information

Owner Name:	JONES JEAN MARIE	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	503 ELM ST CONWAY SC 29526-	**Deed Reference:**	1) /32617/ 00407 2)

Location & Structure Information

Premises Address:	3505 BEACH RD 0-0000 Waterfront	**Legal Description:**	REAR 250 FT 1720 E SENECA PARK RD SENECA PARK BEACH

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0091	0017	0139		0000			47	2012	Plat Ref:	0008/ 0045

Special Tax Areas: Town: NONE
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
			8,750 SF	34

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation

Value Information

	Base Value	Value As of 01/01/2012	Phase-in Assessments As of 07/01/2013	As of 07/01/2014
Land:	176,700	176,700		
Improvements	0	0		
Total:	176,700	176,700	176,700	176,700
Preferential Land:	0			0

Transfer Information

Seller: JONES ROY E	Date: 10/02/2012	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /32617/ 00407	Deed2:
Seller: JONES ROY E	Date: 05/07/1980	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /06162/ 00663	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2013	07/01/2014
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Tax Exempt: Special Tax Recapture:
Exempt Class: NONE

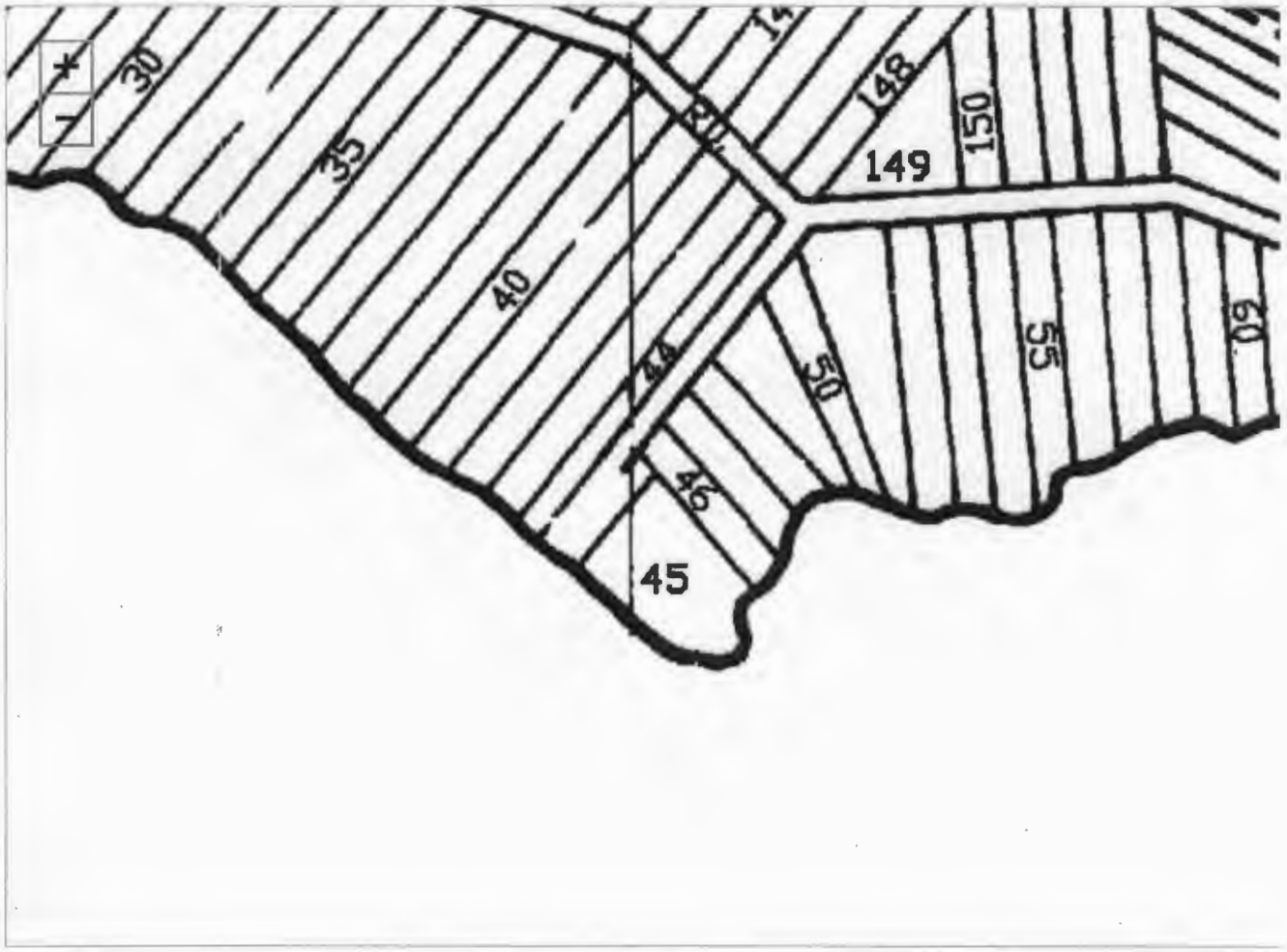
Homestead Application Information

Homestead Application Status: No Application

Baltimore County

New Search (http://sdat.resiusa.org/RealProperty)

District: 15 Account Number: 1502201030



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 (http://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 (http://www.mdp.state.md.us/OurProducts/OurProducts.shtml)**.

(http://imsweb05.mdp.state.md.us/website/mosp/)

Loading... Please Loading... Please Wait.

-->

4/10/14
WCR

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: April 7, 2014

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 3505 Beach Road

INFORMATION:

Item Number: **14-172**

Petitioner: Jean Jones

Zoning: **RC 5**

Requested Action:

The petitioner is requesting relief for side yard and rear yard setbacks as well as a setback from the road centerline. Relief is also needed for the lot size, for an area of 9,750 square feet, in lieu of the required 1 ½ acres. Additionally, the building will cover 20% of the lot, as opposed to the maximum allowed 15%.

The subject site is at the very end of Seneca Park Road in an area with many narrow lots that have houses very close to one another. The dwelling proposed in this petition is similar in size and style to the surrounding houses. The petitioner has submitted architectural elevations along with photos of the subject site and the surrounding area.

This department has reviewed the submittals and finds the proposal to be in accordance with the spirit and intent of the performance standards listed within Section 1A04.4 of the Baltimore County Zoning Regulations. In sum, this office does not oppose the subject request.

Division Chief: Ryan Latham
AVA/LL

RECEIVED
APR 9 2014
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

W:\DEVREV\ZAC\ZACs 2014\14-172.docx

Sherry Nuffer - I just received the files for scheduled hearings on Tuesday April 15, 2014. Case No.: 2014-0172-A is in CBCA and there is no DEPS ZAC comment. Please advise.

From: Sherry Nuffer
To: Livingston, Jeffrey
Date: 4/11/2014 10:09 AM
Subject: I just received the files for scheduled hearings on Tuesday April 15, 2014. Case No.: 2014-0172-A is in CBCA and there is no DEPS ZAC comment. Please advise.

I just received the files for scheduled hearings on Tuesday April 15, 2014. Case No.: 2014-0172-A is in CBCA and there is no DEPS ZAC comment. Please advise.

Thank you and have a great weekend!

Sherry Nuffer
Legal Assistant
Office of Administrative Hearings
105 W. Chesapeake Avenue
Room 103
Towson, Maryland 21204
410-887-3868
Fax: 410-877-3468


RESPONDENT'S
EXHIBIT
1

RESPONDENT'S
EXHIBIT
2

RESPONDENT'S
EXHIBIT
3

RESPONDENT'S
EXHIBIT
4


RESPONDENT'S
EXHIBIT
5

RESPONDENT'S
EXHIBIT
6

RESPONDENT'S
EXHIBIT
7

NO
TRESPASSING
RESPONDENT'S
EXHIBIT
8

Case No.: 2014-0172-A

Exhibit Sheet

4/23/14
Sen

Petitioner/Developer

Protestants

No. 1	Plan	
No. 2	Aerial photo of site	
No. 3	SDAT record; Deed and boundary survey	
No. 4	Photos and proposed elevations	
No. 5	Seneca Park Beach Plat	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

Real Property Data Search (w1) Search Help

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Account Identifier: District - 15 Account Number - 1502201030

Owner Information

Owner Name:	JONES JEAN MARIE	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	503 ELM ST CONWAY SC 29526-	**Deed Reference:**	1) /32617/ 00407 2)

Location & Structure Information

Premises Address:	3505 BEACH RD 0-0000 Waterfront 21220	**Legal Description:**	REAR 250 FT 1720 E SENECA PARK RD SENECA PARK BEACH

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0091	0017	0139		0000			47	2012	Plat Ref:	0008/ 0045

Special Tax Areas: Town: NONE
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
			8,750 SF	34

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation

Value Information

	Base Value	Value As of 01/01/2012	Phase-in Assessments As of 07/01/2013	As of 07/01/2014
Land:	176,700	176,700		
Improvements	0	0		
Total:	176,700	176,700	176,700	176,700
Preferential Land:	0			0

Transfer Information

Seller: JONES ROY E	Date: 10/02/2012	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /32617/ 00407	Deed2:
Seller: JONES ROY E	Date: 05/07/1980	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /06162/ 00663	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2013	07/01/2014
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Tax Exempt: Special Tax Recapture:
Exempt Class: NONE

Homestead Application Information

Homestead Application Status: No Application

1. This screen allows you to search the Real Property database and display property records.
2. Click here for a glossary of terms.
3. Deleted accounts can only be selected by Property Account Identifier.
4. While we have confidence in the accuracy of these records, the Department makes no warranties, expressed or implied, regarding the information.

PETITIONER'S

EXHIBIT NO. 3

032617 407

FILE NAME: JONES, ROY E.
FILE NO. : 08-7666

TAX ID# : 15-02-201030
PROPERTY: 3505 Beach Road
Baltimore, Md. 21220

NO CONSIDERATION, NO TITLE SEARCH, NO TRANSFER TAXES OR DOCUMENTARY STAMPS

NO TITLE SEARCH REQUESTED

THIS DEED, Made this 2nd of October, 2012, by and between **JEAN MARIE JONES** and **LEROY ERNEST JONES, JR.**, Co-Personal Representatives of the Estate of **ROY E. JONES**, also known as **LEROY JONES**, parties the first part, and **JEAN MARIE JONES**, party of the second part.

WHEREAS, the said **ROY E. JONES**, also known as **LEROY JONES**, died on the 25th day of February, 2008; and

WHEREAS, the said **JEAN MARIE JONES** and **LEROY ERNEST JONES, JR.** were appointed Co-Personal Representatives of the Estate of **ROY E. JONES**, also known as **LEROY JONES**, and duly qualified in the Orphans Court for Baltimore County, Estate No.: 160311; and

WHEREAS, the said **JEAN MARIE JONES** being a legatee under the decedent's Last Will and Testament, has had distributed to her the property hereinafter described pursuant to the Third and Final Administration Account; and

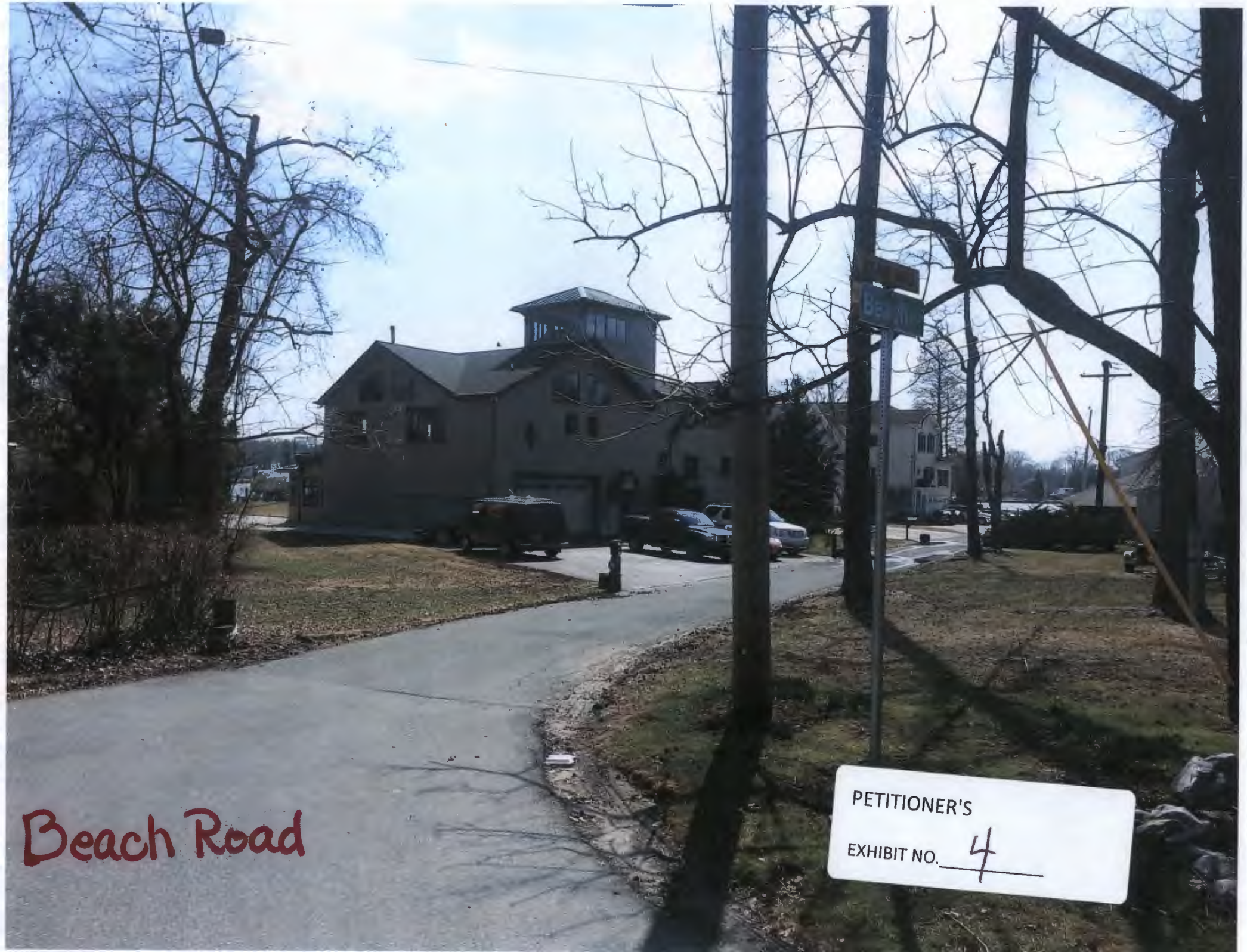
WHEREAS, the said Co-Personal Representatives as aforesaid of the Estate of **ROY E. JONES**, also known as **LEROY JONES**, pursuant to the provisions of the Annotated Code of Maryland, Estates and Trusts Article, execute and deliver this Deed as evidence of the distributee's title to said real estate.

NOW, THEREFORE, in consideration of the premises and for no actual monetary consideration, the said **JEAN MARIE JONES** and **LEROY ERNEST JONES, JR.**, Co-Personal Representatives of the Estate of **ROY E. JONES**, also known as **LEROY JONES**, parties of the first part, do grant and convey unto **JEAN MARIE JONES**, party of the second part, her personal representatives and assigns, in fee simple, all that lot of ground situate in the 15th Election District of Baltimore County, Maryland, and described as follows:

BEGINNING FOR THE SAME and being known as Lot No. 47 fronting on the water of Seneca Creek in the water front section of Seneca Park as shown on a Revised Plat of Seneca Park Beach filed among the Land Records of Baltimore County in Plat Book WPC No. 8, folio 45 &c with the use of the Street or Boulevard in the rear of said lots and all streets and avenues communicating therewith in common.

BEING the firstly described lot of ground which by Deed dated May 2, 1980 and recorded among the Land Records of Baltimore County in Liber EHK, Jr. No. 6162, folio 663, was granted and assigned by Roy E. Jones and Betty Lou Jones, to Roy E. Jones. The said Roy E. Jones was also known as Leroy Jones. The said Roy E. Jones, also known as Leroy Jones, died on February 25, 2008. The said Jean Marie Jones and Leroy Ernest Jones, Jr., were appointed Co-Personal Representatives of the Estate of Roy E. Jones, also known as Leroy Jones, by the Register of Wills for Baltimore County on September 17, 2010 (See Estate Number 160311).

TOGETHER with the buildings and improvements thereupon erected, made or being, and all and every the rights, alleys, ways, waters,privileges, appurtenances and advantages, to the same belonging, or anywise appertaining.


Beach Road
PETITIONER'S
EXHIBIT NO. 4


3507 Beach Road


Subject Site 3505 Beach Road

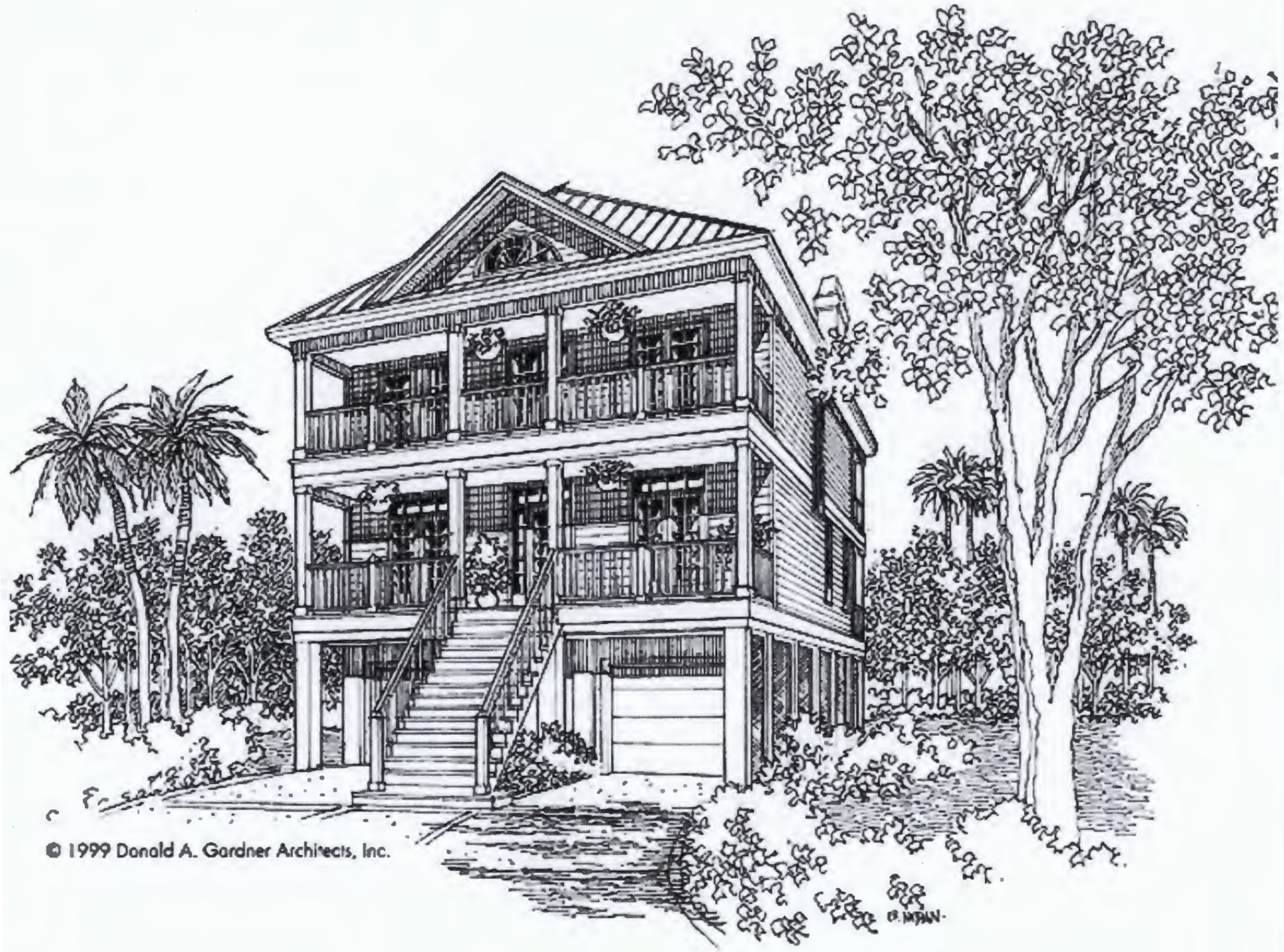

Subject Site 3505 Beach Road

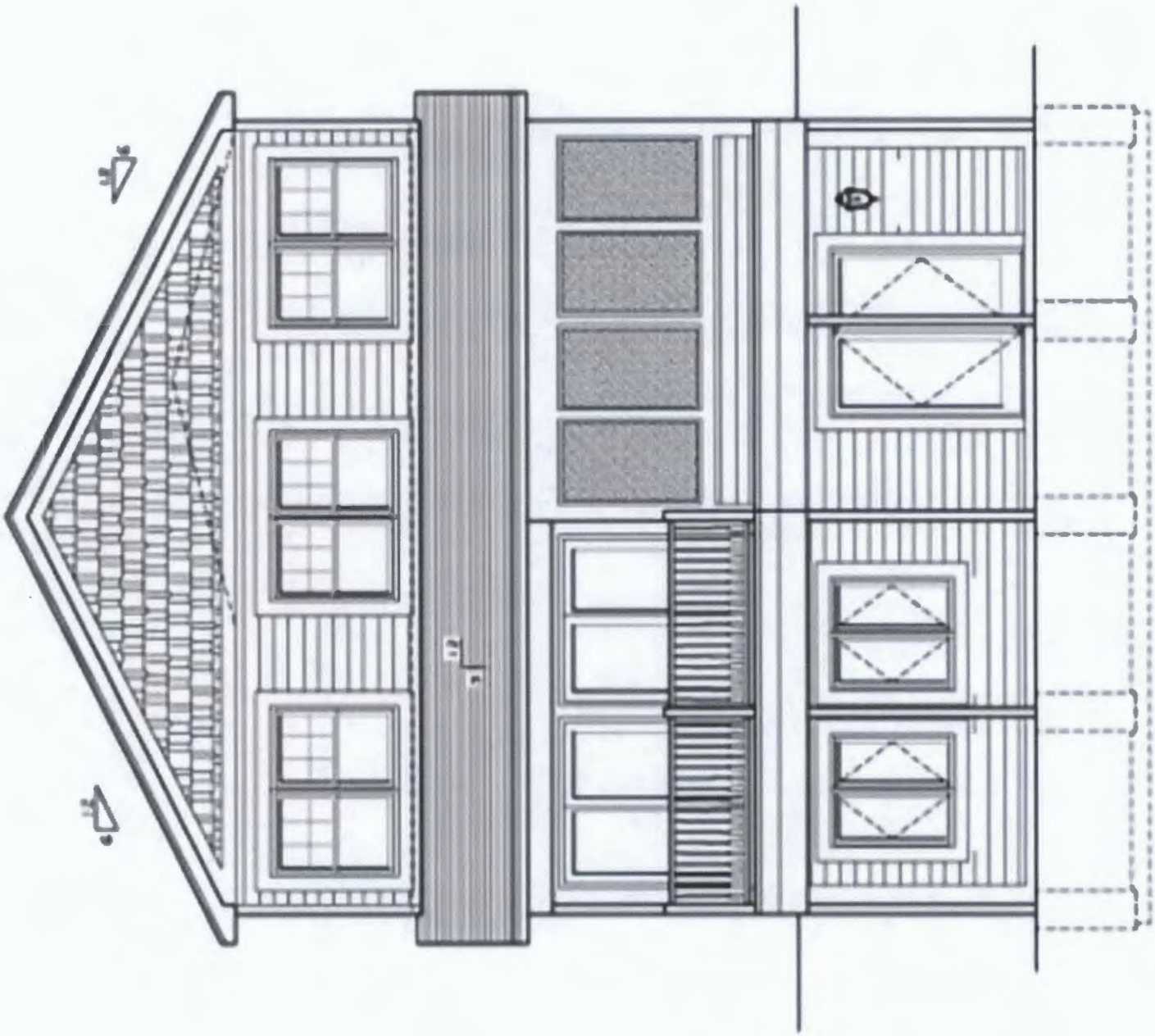

Subject Site 3505 Beach Road


3503 Beach Road


3503 Beach Road

3501 Beach Road

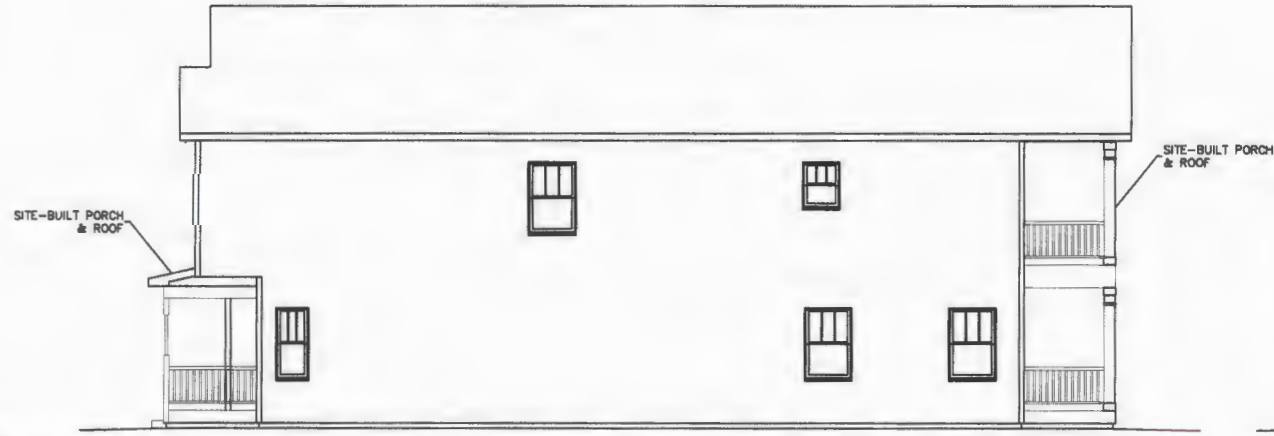




27'-4" WIDE 7/12 STORAGE W/12" OVERHANGS

LEFT ELEVATION

FRONT ELEVATION



RIGHT ELEVATION

REAR ELEVATION

NOTES:
1. ALL NOTES STATING "IN FIELD" OR "BY OTHERS" ARE OBLIGATIONS PERTAINING TO THE DEALER, BUILDER, CUSTOMER. OR OWNER.
2. BASEMENT WINDOWS BY OWNER
3. ALL EXTERIOR LIGHTS ARE FACTORY SUPPLIED AND FIELD INSTALLED.
4. HINGE ROOF SYSTEMS REQUIRE FIELD COMPLETION.
5. FOOTINGS, FOUNDATION AND STEPS ARE SUPPLIED AND INSTALLED ON SITE BY OTHERS
6. GARAGE DOORS SUPPLIED AND INSTALLED ON SITE BY OTHERS
7. SADDLES BETWEEN UNITS OF THE SAME ROOF PITCH AND UNIT WIDTH WILL BE PANELIZED
8. ALL OTHER SADDLES BETWEEN UNITS WILL HAVE MATERIALS SHIPPED LOOSE FOR ON SITE CONTRUCTION.
9. SIDING FOR THE GABLE ENDS AND SECOND FLOOR OF 2-STORY IS SHIPPED LOOSE FOR FIELD INSTALLATION.
10. HANDRAILS STOOPS, DOWNSPOUTS AND GUTTERS ARE FURNISHED AND INSTALLED BY OTHERS IN ACCORDANCE WITH ALL STATE AND LOCAL CODES.
11. TERMINATION HEIGHT OF METAL CHIMNEYS WILL BE A MINIMUM OF 3'-0" ABOVE THE HIGHEST POINT WHERE THEY PASS THRU THE ROOF AND A MINIMUM OF 2'-0" HIGHER THAN ANY PORTION OF A BUILDING WITHIN 10'-0" (CHIMNEY WILL BE INSTALLED BY OTHERS ON SITE)

NO	DATE	REVISION / DESCRIPTION	BY

RITZ-CRAFT CORPORATION

STARTED:	DEALER:	SCALE: 1/8"=1'-0"	CO #:
TO SALES:	CUSTOMER:	DRAWN BY:	SN:
SALES:	RC REP:	CLT 2276 ELEVATIONS	
DATE:	STATE:		
CONFIRM COMPLETE:			SHEET #:
PERMIT SET COMPLETE:			

LETTER OF TRANSMITTAL

Site Rite Surveying, Inc.
Shell Building, Room 101
200 East Joppa Road
Towson Maryland 21286
410-828-9060
FAX: 410-828-9066

RECEIVED
MAY 07 2014
OFFICE OF ADMINISTRATIVE HEARINGS

DIRECT CORRESPONDENCE TO:

TO: Office of Administrative Hearings
105 W. Chesapeake Avenue Ste 103

DATE: 4/30/2014

SUBJECT: 3505 Beach Road
Case Nº 2014-0172-A

ATTENTION: John Beverungen, ALJ

OUR FILE: 10260

WE ARE: ☒ HEREWITH ☐ UNDER SEPARATE COVER

TRANSMITTING VIA: ☒ MESSENGER ☐ U.S.MAIL (_____) ☐ THE FOLLOWING: ☐ _____

QUANTITY	DRAWING	DESCRIPTION AND/OR TITLE
1 ✓		Revised Petition's Exhibit per Approved Order
1		Copy of Order

TRANSMITTED AS INDICATED BELOW:

☑ PER AGREEMENT ☐ PER YOUR REQUEST
☐ FOR YOUR INFORMATION ☑ FOR APPROVAL
☐ FOR COMMENT ☐ _____

3 COPY(S) OF plan SENT TO Bob Long to distribute to adj. owners.
____ COPY(S) OF _____ SENT TO _____
____ COPY(S) OF _____ SENT TO _____

REMARKS: Please confirm receipt via email (siteriteinc@aol.com)
Thank you for your time and attention to this matter.

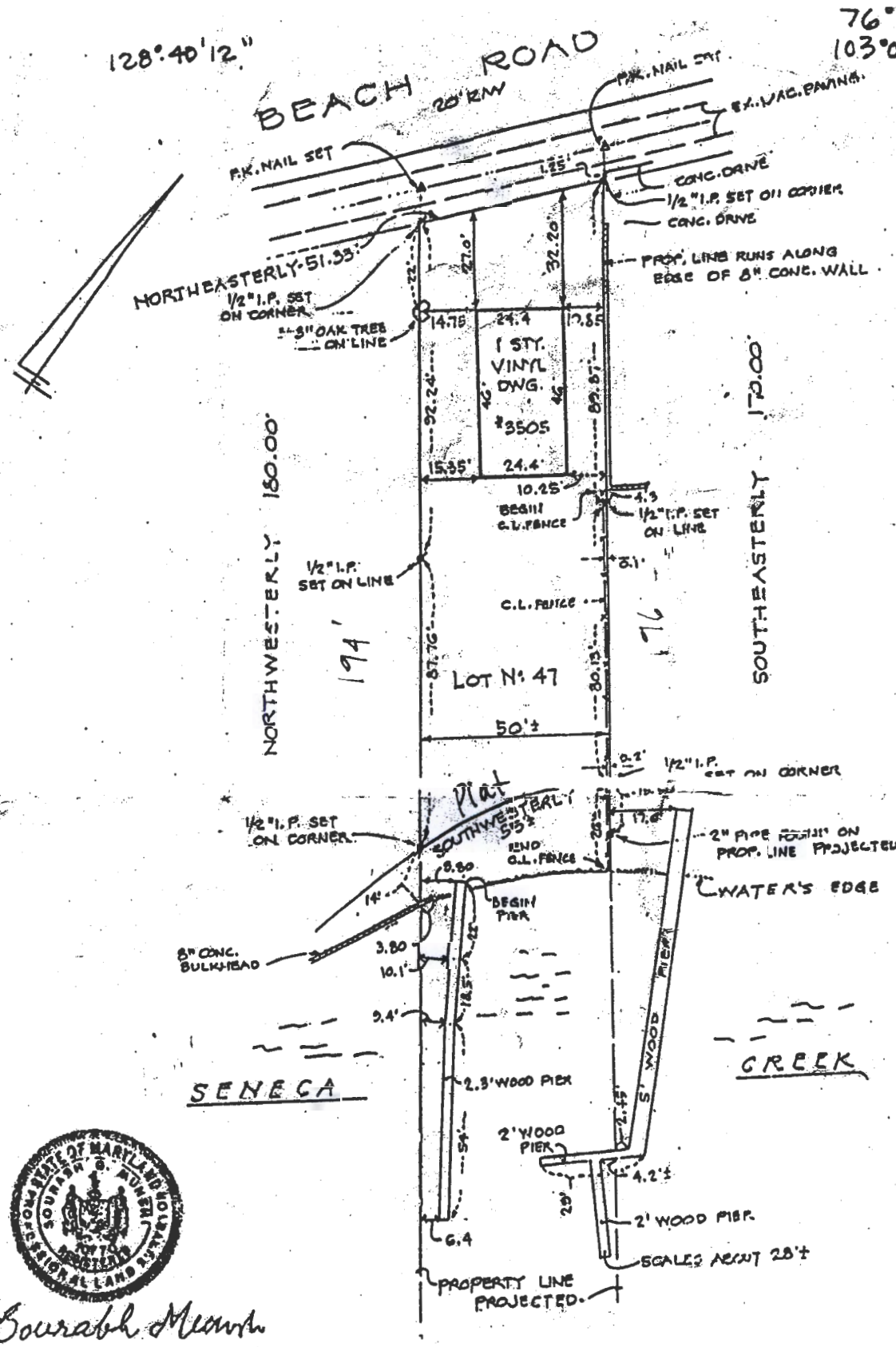
PLEASE SIGN AND RETURN ONE (1) COPY OF THIS TRANSMITTAL AS A RECEIPT

VERY TRULY YOURS:

Site Rite Surveying, Inc.
SENT BY: Bernadette L. Moskunas

RECEIVED BY: _____
DATE: _____

FILE: LTR OF TRANSMITTAL.DOC\MASTERS\DRIVE C



50' x 195' (more or less)

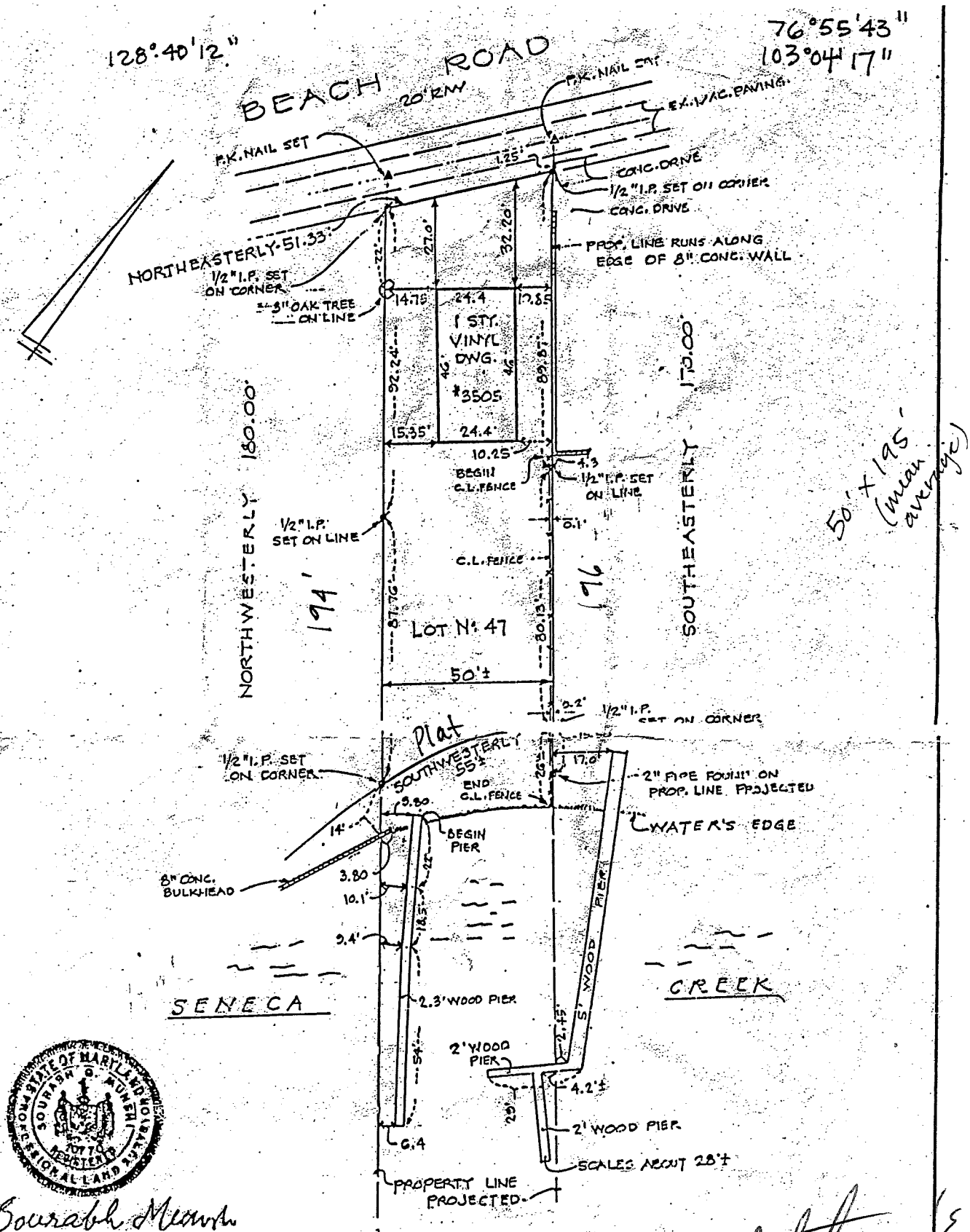
STATE OF MARYLAND — SOURABH M. MUNTH — PROFESSIONAL LAND SURVEYOR

Sourabh Munth

BOUNDARY SURVEY
for
LOT N°: 47
PLAT OF
"SENECA PARK BEACH"
W.P.C. 8 FOLIO 45

DON LYNCH ASSOC., INC.
4907 HARFORD ROAD
BALTIMORE, MD. 21214

Scale: 1" = 20' Date: 11/14/



STATE OF MARYLAND
SOURABH O. MUNETH
No. 7170
REGISTERED
PROFESSIONAL LAND SURVEYOR

Sourabh Mueth

BOUNDARY SURVEY
for
LOT N°: 47
PLAT OF
"SENECA PARK BEACH"
W.P.C. 8 FOLIO 45

Petitioner's No 3

DON LYNCH ASSOC., INC.
4907 HARFORD ROAD
BALTIMORE, MD. 21214

Scale: 1" = 30' | Date: 11/14/90

Petitioner's
Ex 2

SENECA PARK BEACH

EDGAR E. KENLY
SALES AGENT.
HOMEWOOD 2695.

SCALE 1in. = 100ft.
TOLLEY & ELWAYS CO.
CIVIL ENGRS.
BALTO. MD.

REVISED PLAT
APRIL 1926.

CARROLL'S ISLAND ROAD

LOVERS LANE

PARK & BOAT HARBOR

A 5 Acres

B 5 Acres

C 7.59± Acres

HUGHES BOULEVARD

BEACH

SENECA CREEK

GUM POINT

SENECA PARK BEACH

EDGAR E. KENLY
SALES AGENT.
HOMEWOOD 2695.

SCALE 1in. = 100ft.
TOLLEY & BLAYS CO.
CIVIL ENGR'S.
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REVISED PLAT
APRIL 1926.

CARROLL'S ISLAND ROAD

LOVERS LANE

PARK & BOAT HARBOR

A 5 Acres

B 5 Acres

C 7.59± Acres

HUGHES BEACH

BEACH

BEACH

BOULEVARD

ROAD

SENECA CREEK

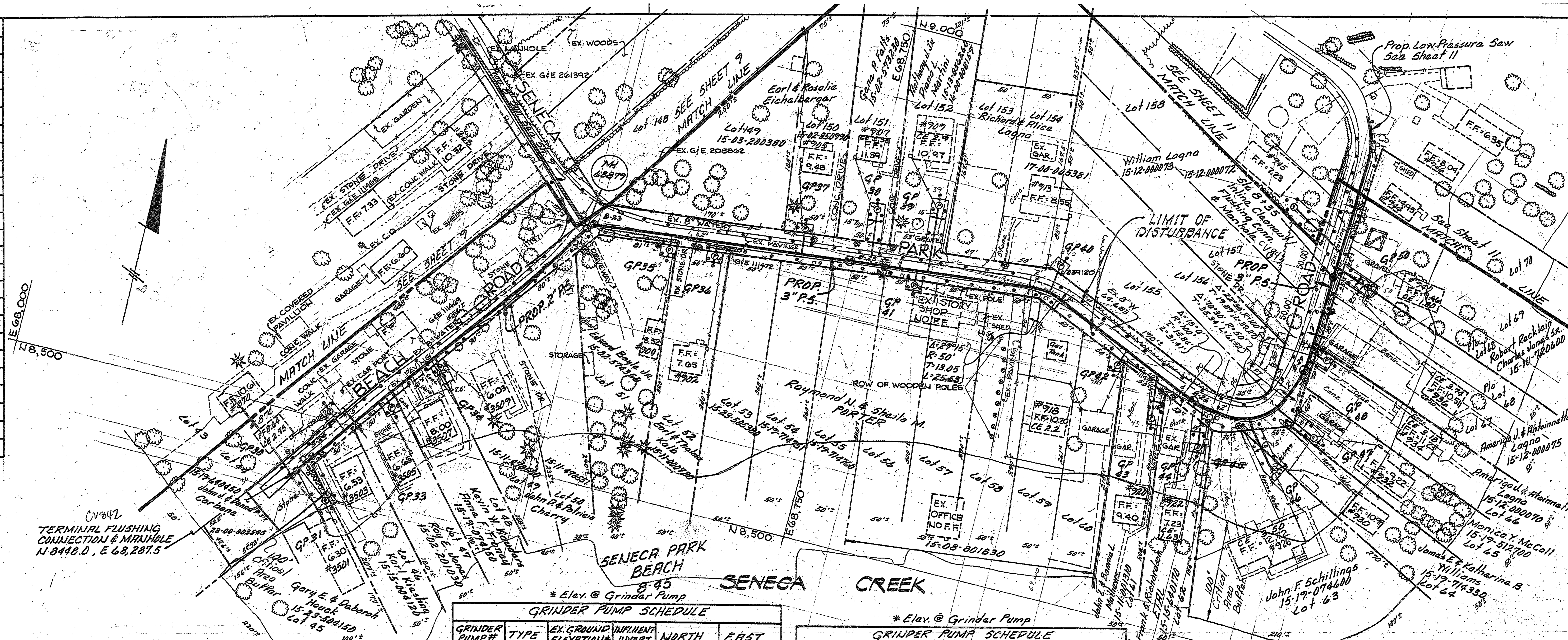
SENECA CREEK

IONER'S

T NO. 5

SENECA PARK RD.		
℄ Sta	North	East
MH 68879	8,737.5	68,495.0
0+10 22½°HB	8,743.0	68,506.5
3+00	8,773.5	68,794.0
4+27.5 P.C.	8,787.0	68,821.0
4+53 P.T.	8,782.0	68,847.0
6+02.5 P.C.	8,723.0	69,084.0
6+33.9 P.T.	8,715.5	69,113.5
6+49 P.C.	8,714.5	69,128.0
7+10.5 P.T.	8,743.5	69,178.0
7+18 P.C.	8,750.5	69,182.0
7+57 P.T.	8,788.5	69,191.0
8+35 MH	8,866.0	69,195.0
9+00	8,931.0	69,197.0

BEACH ROAD		
℄ Sta.	North	East
1+00	8,654.0	68,442.0
2+00	8,574.0	68,382.5
3+58 MH	8,448.0	68,287.5



* Elev. @ Grinder Pump

GRINDER PUMP SCHEDULE					
GRINDER PUMP #	TYPE	EX. GROUND ELEVATION*	INFLUENT INVERT	NORTH	EAST
GP30	S	4.8±	-2.2	8,508.0	68,304.0
GP31	D	4.8±	-1.2	8,427.0	68,320.5
GP32		Deleted			
GP33	S	4.6±	-1.4	8,525.58	68,359.19
GP34	D	4.8±	-1.7	8,570.67	68,399.82
GP35	S	6.1±	-1.4	8,737.40	68,579.17
GP36	S	6.5±	-1.5	8,742.27	68,622.12
GP37	S	7.9±	+2.9	8,788.24	68,698.72
GP38	S	6.8±	-1.2	8,823.69	68,759.67

* Elev. @ Grinder Pump

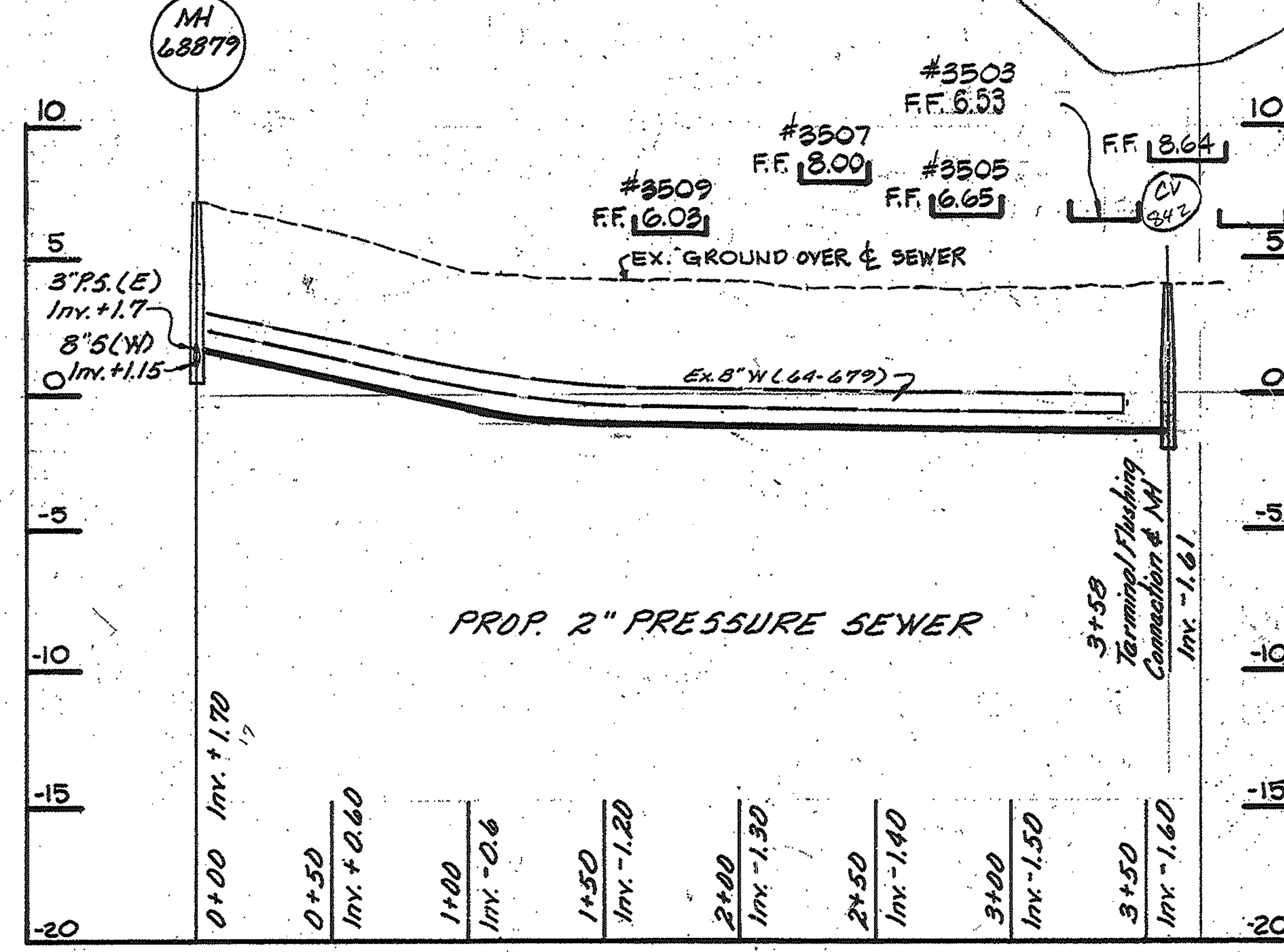
GRINDER PUMP SCHEDULE					
GRINDER PUMP #	TYPE	EX. GROUND ELEVATION*	INFLUENT INVERT	NORTH	EAST
GP39	S	6.8±	-0.2	8,842.50	68,815.81
GP40	S	4.8±	-0.2	8,811.68	68,940.09
GP41	S	5.9±	-3.1	8,763.52	68,812.52
*GP42	D (C)	5.6±	-4.4	8,735.33	69,016.75
GP43	S	4.5±	-2.0	8,694.75	69,060.11
GP44	S	4.7±	-0.3	8,681.08	69,110.03
~~GP45~~	~~S~~	~~4.8±~~	~~-0.2~~	~~8,692.36~~	~~69,143.45~~
GP46	D	5.5±	-0.5±	8,676.7±	69,184.2±
GP47	S	5.0±	0.0	8,713.58	69,212.46
GP48	S	5.0±	0.0	8,788.79	69,207.65
GP49		Deleted			
GP50	D	5.0±	-1.0	8,864.00	69,228.85

* Commercial Duplex Grinder Pump.

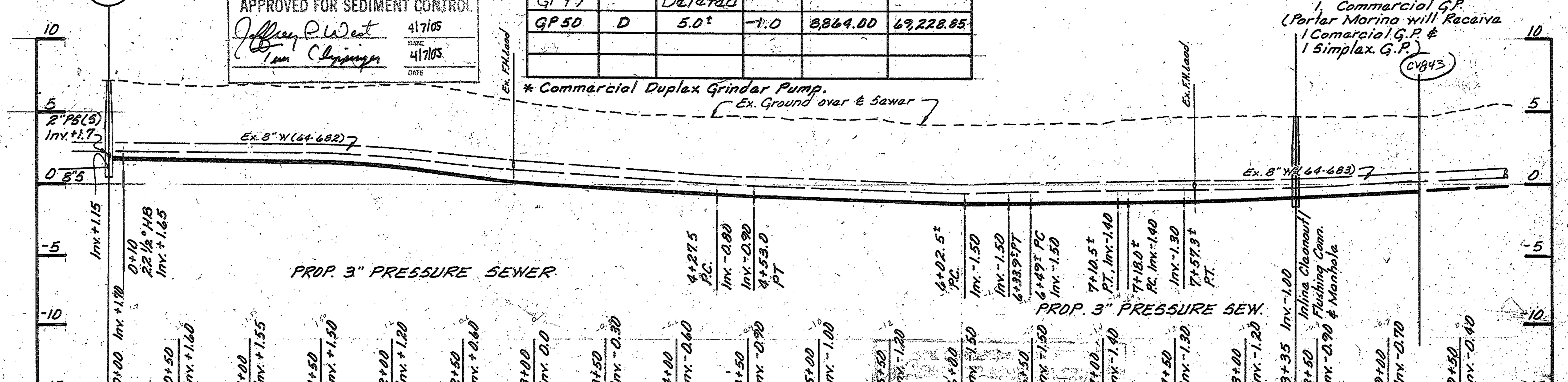
SOIL CONSERVATION
APPROVED FOR SEDIMENT CONTROL
Jeffrey P. West 4/7/05
Tom Clippinger 4/7/05

Note: Directional Drilling of low pressure sewer pipe may not be possible with a radius of less than 180'±. For proposed low pressure sewer pipes with a radius of less than 180'± the Contractor shall install the low pressure sewer pipe by the Open Cut method. The low pressure sewer pipe install by open cut shall be of the same materials as the pipe that it will connect to. The cost to install this sewer will not be paid for separately, and shall be paid for under the Items for low pressure pipe and as per the Special Provision, Section 5 "Measurement of Payment" B-2

Number of House Connections 22
~~15~~ 13 Simplex G.P.
~~3~~ 4 Duplex G.P.
1 Commercial G.P.
(Porter Marina will Receive 1 Commercial G.P. & 1 Simplex G.P.)



BEACH ROAD



SENECA PARK ROAD

CITY OF BALTIMORE			
DIRECTOR DEPT. OF PUBLIC WORKS	DATE	CHIEF, WATER ENG. DIVISION BUR. OF WATER AND WASTEWATER	DATE

SEAL: STATE OF MARYLAND — GLEN A. KELLER — No. 14167 — REGISTERED PROFESSIONAL ENGINEER

DATE	RIGHT OF WAY	REF.	ROAD PERMIT AND GRADES	P. W. A. DIR. NO.	CONTRACT NO.
	R/W 94-141		PERMIT REQUESTED; PERMIT NUMBER; GRADE ESTABLISHED 7-2-64; PROFILE NUMBER 64-557		05004 SXD

REVISED AS PER RECORD PRINT		
J.O.	DRAFTSMAN	DATE
	PAUL BOLLARD	10/7/11

DESIGNED RAF — DRAWN RAF — CHECKED GAK
Baltimore County — ENGINEER Glen A. Keller — DATE 1/10/05 LIC. NO. 14167

BUREAU OF ENGINEERING	HIGHWAYS	STRUCTURES	STORM DRAINS	WATER	SEWER	FIELD ENGINEER
REVIEWED	JMQ	X	GJK	BFK	GAK	JDP
DATE	2/7/05	X	2/7/05	2/4/05	1/10/05	2-8-05

BUREAU OF ENGINEERING — APPROVED [signature] CHIEF — DATE 2/8/05
DEPARTMENT OF PUBLIC WORKS — APPROVED [signature] DIRECTOR — DATE 2/8/05

LEVEL BK. — DETAIL BK. — KEY SHEET Z-5W — POSITION SHEET 9 NE 46, 9 NE 47

DATE	REVISION	BY
9/5/09	ADD CV Numbers	SJI
6-21-07	Eliminate GP 45, Change GP 46 to Duplex & Loc.	RAF

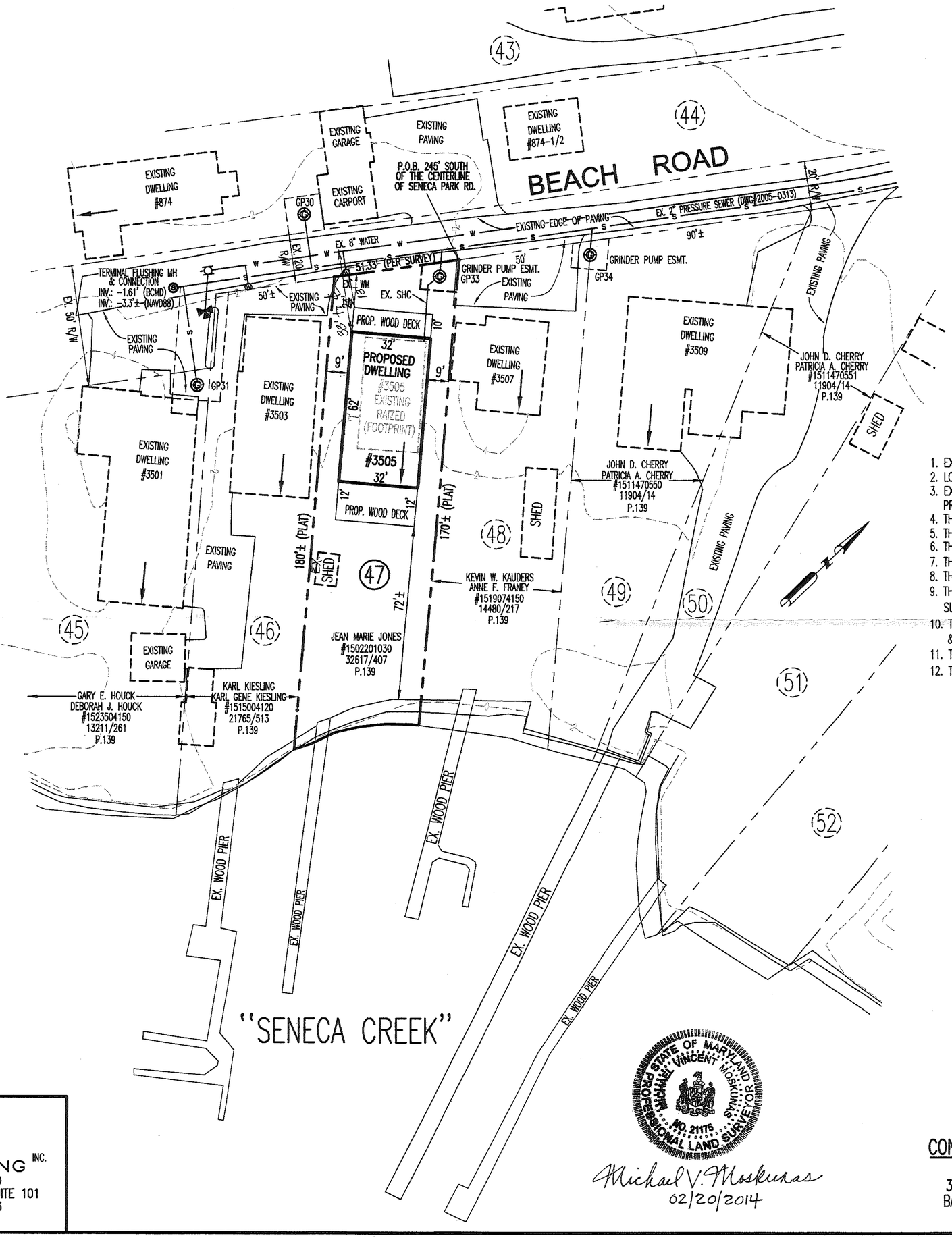
SCALE — PLAN: 1"=50' — PROFILE: HOR. 1"=50', VERT. 1"=5'

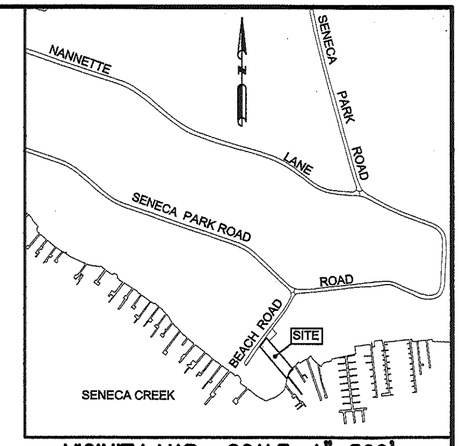
Design and Drawing based on Baltimore County Metropolitan District Grid System and Datum

BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS BUREAU OF ENGINEERING
LOW PRESSURE, GRINDER PUMPS, GRADING, SEDIMENT & EROSION CONTROL
SENECA PARK RD. & BEACH RD
HOLLMEYER / SENECA PARK
SUBDIVISION SENECA PARK — EL. DISTRICT NO. 15C6
SCANNED

05004 SXD
JOB ORDER NO. 201-0085-0008
SHEET 10 OF 18
DWG. NO. 2005-0313
FILE: 1

BALTIMORE COUNTY TYPE NUMBER 1





VICINITY MAP SCALE: 1"=500'

GENERAL NOTES

1. EXISTING ZONING: ~~RS-5~~ (091C3) RCS
2. LOT AREA: 9750 S.F.± / BASED ON A BOUNDARY SURVEY FROM DON LYNCH, INC. SURVEY.
3. EXISTING USE: S.F.D. RAZED DURING ISABEL (ACCESSORY BUILDINGS REMAIN)
   PROPOSED USE: REPLACEMENT DWELLING.
4. THIS PROPERTY IS LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA (LDA) AND 100 YEAR FLOOD PLAIN.
5. THIS PROPERTY IS NOT LOCATED IN AN HISTORIC DISTRICT.
6. THIS PROPERTY IS SERVICED BY PUBLIC SEWER AND WATER.
7. THERE ARE NO PRIOR ZONING HISTORY.
8. THERE ARE NO CURRENT OR OUTSTANDING ZONING VIOLATIONS.
9. THIS PROPERTY IS A LOT OF RECORD SHOWN ON THE "SENECA PARK BEACH" PLAT DATED 1926. SAID SUBDIVISION WAS CREATED PRIOR TO THE ADOPTION OF 1945 ZONING REGULATIONS.
10. THIS PLAN WAS PREPARED WITH THE USE OF PUBLIC RECORDS: TITLE DEEDS, RECORD PLATS, GIS PORTAL & UTILITY DRAWINGS. NO BOUNDARY SURVEY WAS COMPLETED BY THIS FIRM. HOWEVER, A BOUNDARY SURVEY
11. THERE IS NO CONTIGUOUS OWNERSHIP.
12. THIS PROPERTY IS LOCATED IN THE MARTIN STATE AIRPORT RESTRICTION AREA.

GRAPHICAL SCALE 1"=30'

0' 30' 60' 90'

STATE OF MARYLAND
VINCENT MOSKUNAS
No. 21175
REGISTERED PROFESSIONAL LAND SURVEYOR

Michael V. Moskunas
02/20/2014

SITE RITE SURVEYING INC.
200 E. JOPPA ROAD
SHELL BUILDING, SUITE 101
TOWSON, MD. 21286
410-828-9060

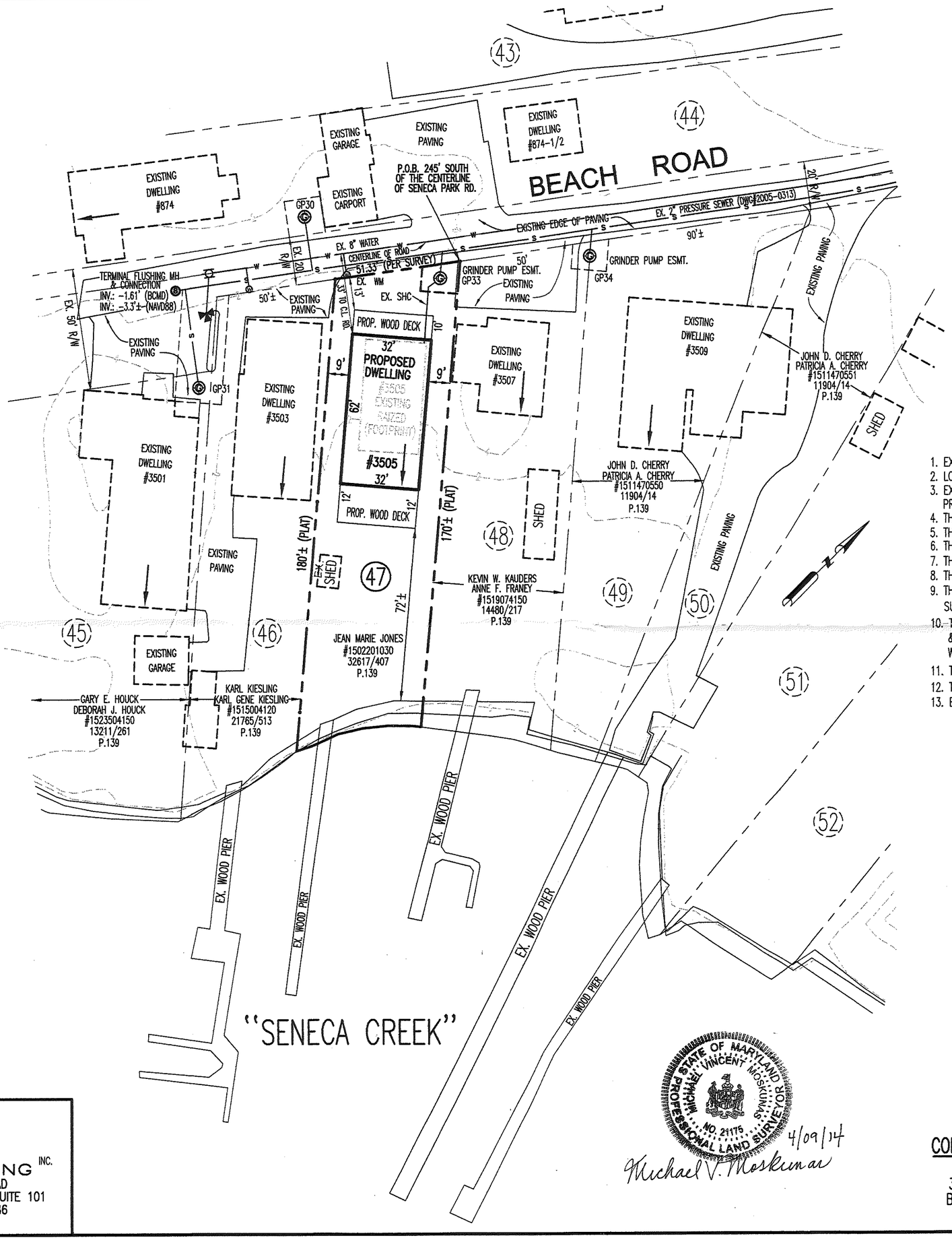
OWNER
JEAN JONES
503 ELM STREET
CONWAY, SC 29526

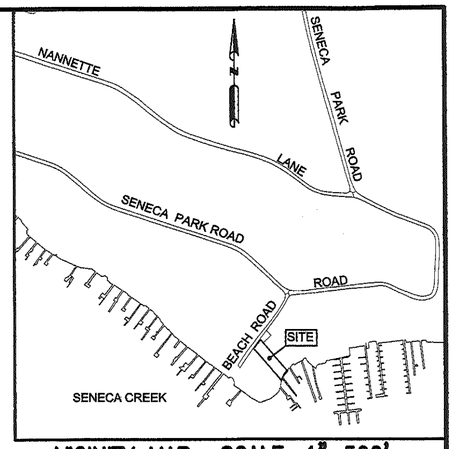
CONTRACT PURCHASER
ROBERT LONG
3827 ANNADALE ROAD
BALTIMORE, MD. 21222
(410) 336-5100

PLAN TO ACCOMPANY PETITION FOR ~~SPECIAL HEARING~~

#3505 BEACH ROAD variance
"JONES PROPERTY"
LOT-47
"SENECA PARK BEACH" 8/45
TAX MAP: 91 GRID: 17 PARCEL: 139
DEED REFERENCE: 32617/407
BALTIMORE COUNTY, MARYLAND
15th ELECTION DISTRICT C6
02/20/2014 SCALE:1"=30' JOB No. ~~9835~~

10260





VICINITY MAP SCALE: 1"=500'

GENERAL NOTES

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4. THIS PROPERTY IS LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA (LDA) AND 100 YEAR FLOOD PLAIN.
5. THIS PROPERTY IS NOT LOCATED IN AN HISTORIC DISTRICT.
6. THIS PROPERTY IS SERVICED BY PUBLIC SEWER AND WATER.
7. THERE ARE NO PRIOR ZONING HISTORY.
8. THERE ARE NO CURRENT OR OUTSTANDING ZONING VIOLATIONS.
9. THIS PROPERTY IS A LOT OF RECORD SHOWN ON THE "SENECA PARK BEACH" PLAT DATED 1926. SAID SUBDIVISION WAS CREATED PRIOR TO THE ADOPTION OF 1945 ZONING REGULATIONS.
10. THIS PLAN WAS PREPARED WITH THE USE OF PUBLIC RECORDS: TITLE DEEDS, RECORD PLATS, GIS PORTAL & UTLITY DRAWINGS. NO BOUNDARY SURVEY WAS COMPLETED BY THIS FIRM. HOWEVER, A BOUNDARY SURVEY WAS COMPLETED BY DON LYNCH ASSOC., INC. IN 1990 WHICH DEMONSTRATES A LOT WIDTH OF 50 FEET.
11. THERE IS NO CONTIGUOUS OWNERSHIP.
12. THIS PROPERTY IS LOCATED IN THE MARTIN STATE AIRPORT RESTRICTION AREA.
13. BUILDING COVERAGE IS 20%.

PETITIONER'S EXHIBIT #1
CASE No. 2014-0172-A

REVISED 2/24/2014: M.V.M.

GRAPHICAL SCALE 1"=30'
0' 30' 60' 90'

STATE OF MARYLAND
MICHAEL VINCENT MOSKUNAS
NO. 21175
PROFESSIONAL LAND SURVEYOR
4/09/14
Michael V. Moskunas

SITE RITE SURVEYING INC.
200 E. JOPPA ROAD
SHELL BUILDING, SUITE 101
TOWSON, MD. 21286
410-828-9060

OWNER
JEAN JONES
503 ELM STREET
CONWAY, SC 29526

CONTRACT PURCHASER
ROBERT LONG
3827 ANNADALE ROAD
BALTIMORE, MD. 21222
(410) 336-5100

PLAN TO ACCOMPANY PETITION FOR VARIANCE

#3505 BEACH ROAD
"JONES PROPERTY"

LOT-47
"SENECA PARK BEACH" 8/45
TAX MAP: 91 GRID: 17 PARCEL: 139
DEED REFERENCE: 32617/407
BALTIMORE COUNTY, MARYLAND
15th ELECTION DISTRICT C6
02/20/2014 SCALE:1"=30' JOB No. 10260

PETITIONER'S

EXHIBIT NO. 2

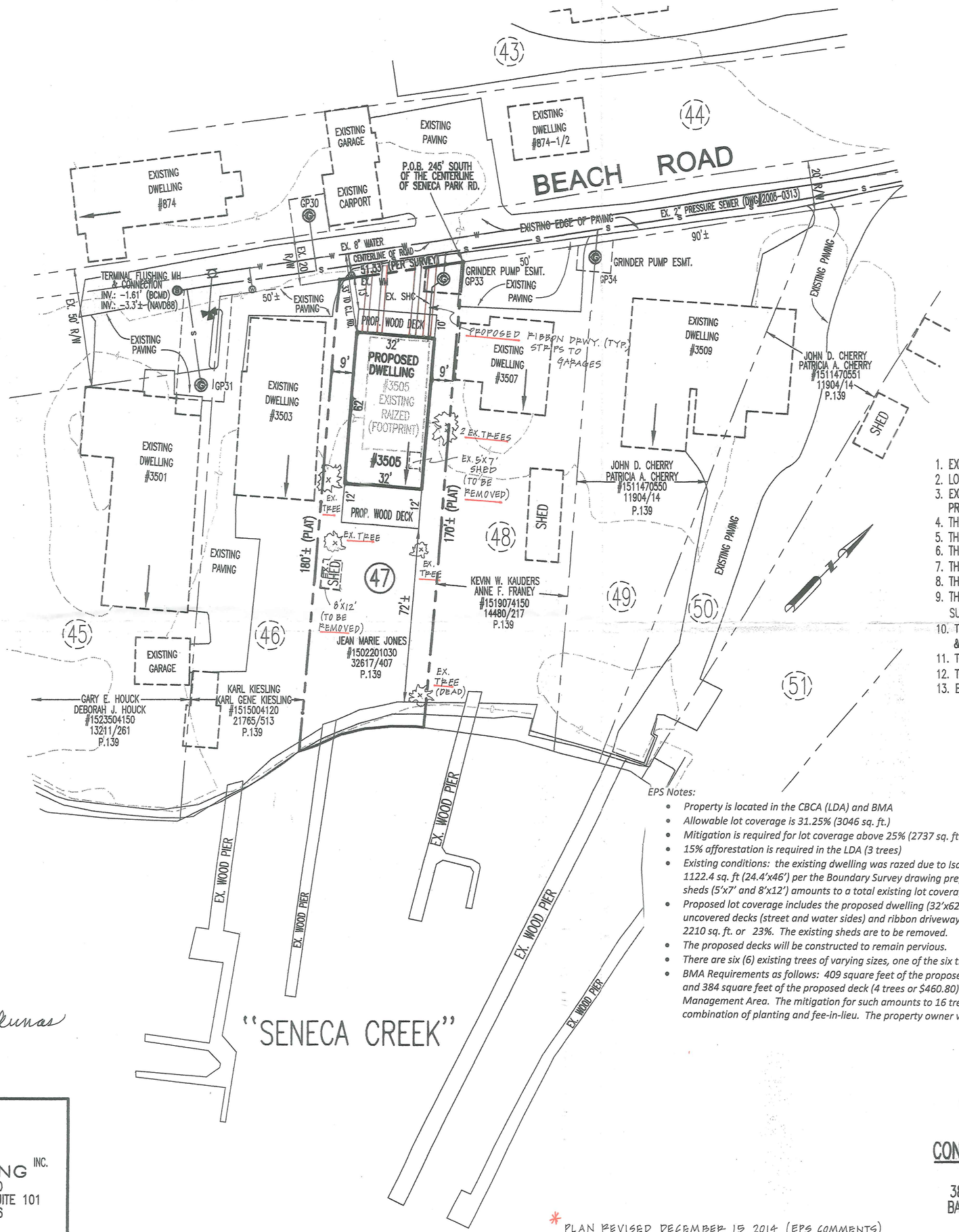
113 Feet

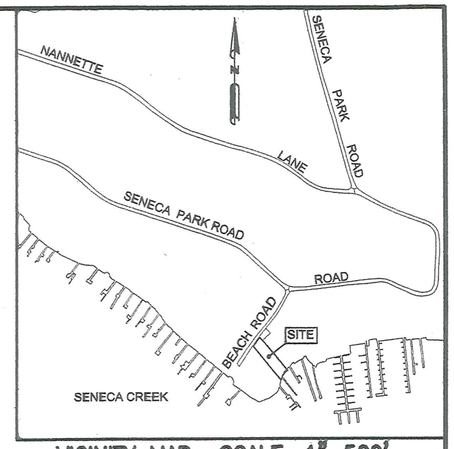
Environmental Map

Created By
Baltimore County
My Neighborhood

10260

Printed 2/7/2014





VICINITY MAP SCALE: 1"=500'

GENERAL NOTES

1. EXISTING ZONING: RC 5 (091C3)
2. LOT AREA: 9750 S.F.± / BASED ON A BOUNDARY SURVEY FROM DON LYNCH, INC. SURVEY.
3. EXISTING USE: S.F.D. RAZED DURING ISABEL (ACCESSORY BUILDINGS REMAIN)
   PROPOSED USE: REPLACEMENT DWELLING.
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13. BUILDING COVERAGE IS 20%.

EPS Notes:

- *Property is located in the CBCA (LDA) and BMA*
- *Allowable lot coverage is 31.25% (3046 sq. ft.)*
- *Mitigation is required for lot coverage above 25% (2737 sq. ft.)*
- *15% afforestation is required in the LDA (3 trees)*
- *Existing conditions: the existing dwelling was razed due to Isabel damage (2003) which was 1122.4 sq. ft (24.4'x46') per the Boundary Survey drawing prepared by Don Lynch Assoc., existing sheds (5'x7' and 8'x12') amounts to a total existing lot coverage of 1253 sq. ft. or 13%*
- *Proposed lot coverage includes the proposed dwelling (32'x62'=1984 sq. ft.) with garage and uncovered decks (street and water sides) and ribbon driveway strips (226 sq. ft.) amounts to 2210 sq. ft. or 23%. The existing sheds are to be removed.*
- *The proposed decks will be constructed to remain pervious.*
- *There are six (6) existing trees of varying sizes, one of the six trees is dead (as shown on the plan)*
- *BMA Requirements as follows: 409 square feet of the proposed dwelling (12 trees or $613.50) and 384 square feet of the proposed deck (4 trees or $460.80) are within the Buffer Management Area. The mitigation for such amounts to 16 trees, payment of $1074.30, or a combination of planting and fee-in-lieu. The property owner will prefer to pay the fee in lieu.*

Petitioner's Exh. 1

PETITIONER'S EXHIBIT #1
CASE No. 2014-0172-A

REVISED 2/24/2014: M.V.M.

GRAPHICAL SCALE 1"=30'
0' 30' 60' 90'

STATE OF MARYLAND
MICHAEL VINCENT MOSKUNAS
PROFESSIONAL LAND SURVEYOR
NO. 21175

Michael V. Moskunas

SITE RITE SURVEYING INC.
200 E. JOPPA ROAD
SHELL BUILDING, SUITE 101
TOWSON, MD. 21286
410-828-9060

OWNER
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503 ELM STREET
CONWAY, SC 29526

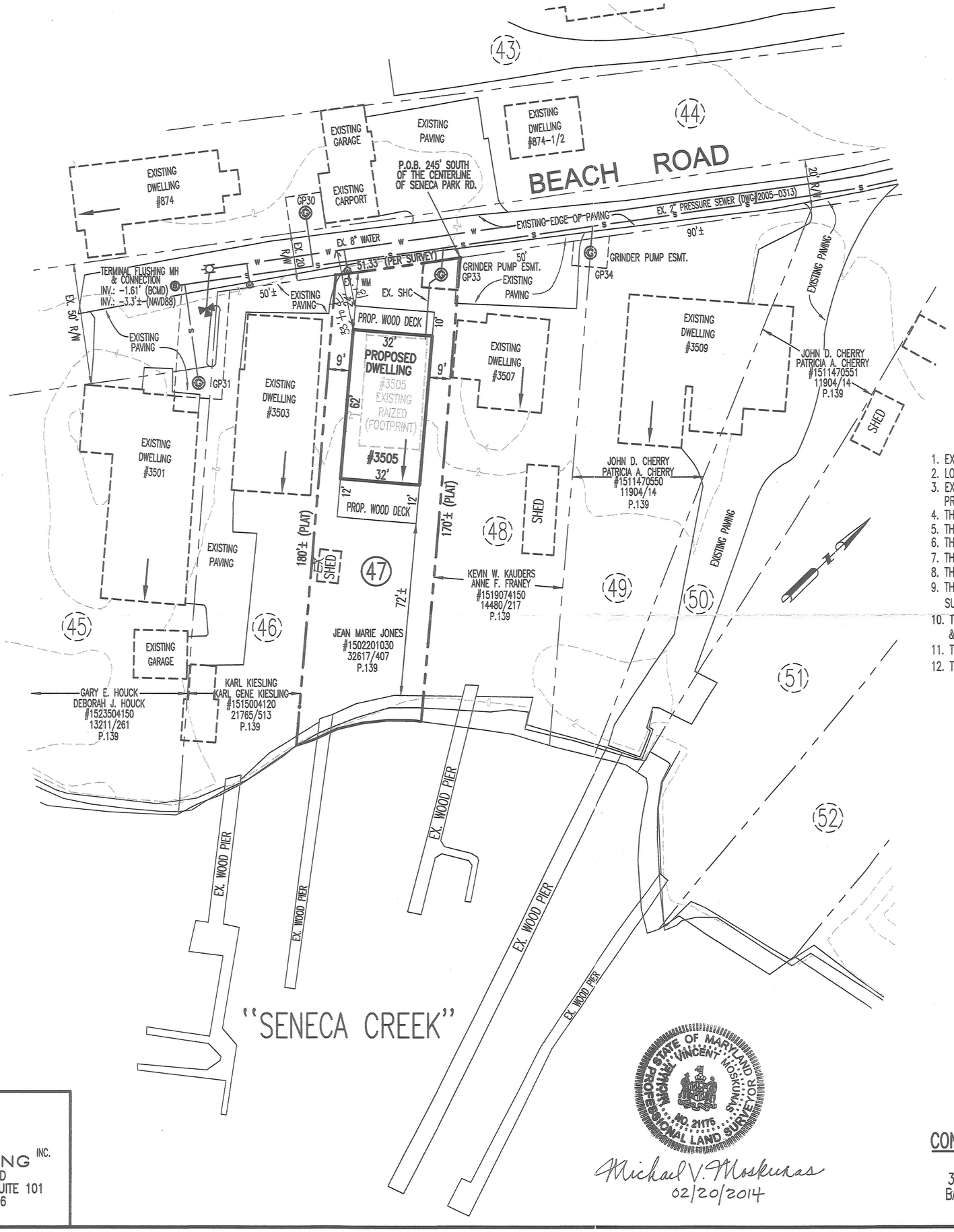
CONTRACT PURCHASER
ROBERT LONG
3827 ANNADALE ROAD
BALTIMORE, MD. 21222
(410) 336-5100

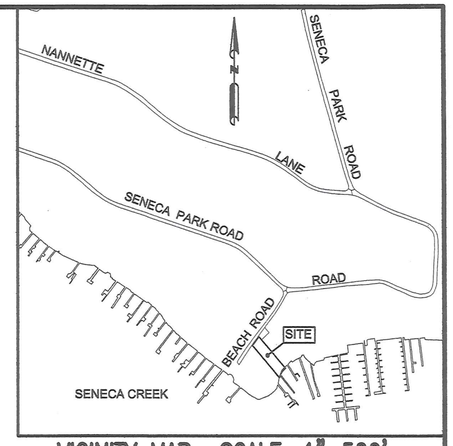
* PLAN REVISED DECEMBER 15, 2014 (EPS COMMENTS)

PLAN TO ACCOMPANY PETITION FOR VARIANCE

#3505 BEACH ROAD
"JONES PROPERTY"

LOT-47
"SENECA PARK BEACH" 8/45
TAX MAP: 91 GRID: 17 PARCEL: 139
DEED REFERENCE: 32617/407
BALTIMORE COUNTY, MARYLAND
15th ELECTION DISTRICT C6
02/20/2014 SCALE:1"=30' JOB No. 10260





VICINITY MAP SCALE: 1"=500'

GENERAL NOTES

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PETITIONER'S
EXHIBIT NO. 1

GRAPHICAL SCALE 1"=30'
0' 30' 60' 90'

STATE OF MARYLAND
MICHAEL VINCENT MOSKUNAS
NO. 21175
PROFESSIONAL LAND SURVEYOR

Michael V. Moskunas
02/20/2014

SITE RITE SURVEYING INC.
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CONWAY, SC 29526

CONTRACT PURCHASER
ROBERT LONG
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BALTIMORE, MD. 21222
(410) 336-5100

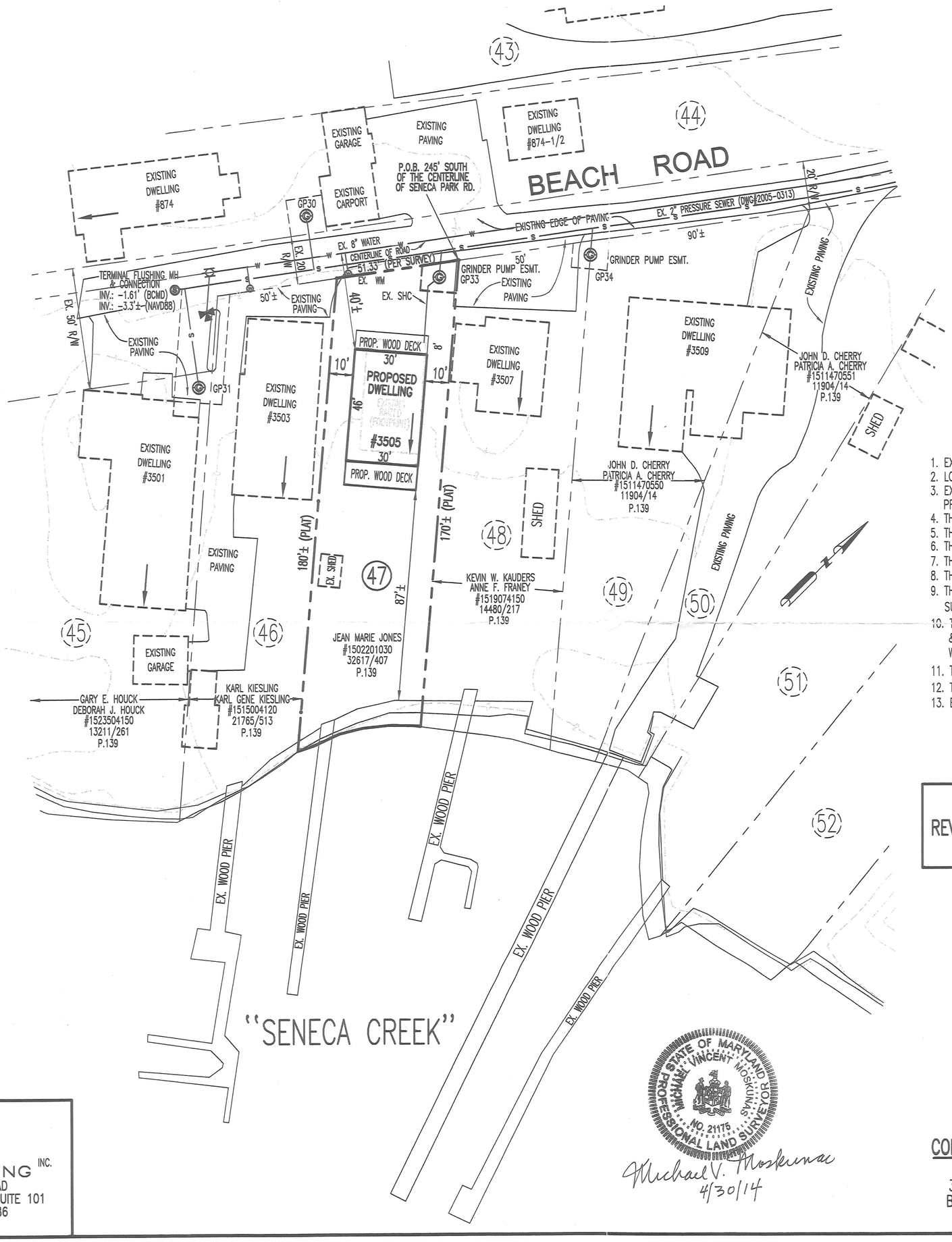
PLAN TO ACCOMPANY PETITION FOR ~~SPECIAL HEARING~~ variance

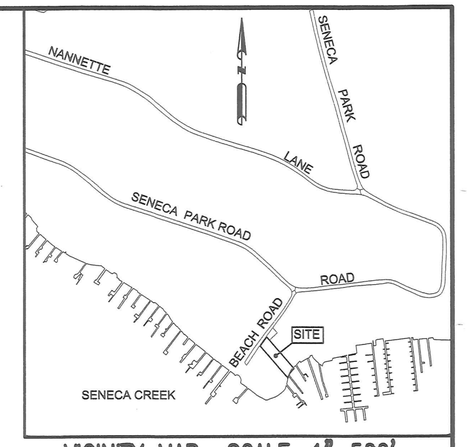
#3505 BEACH ROAD

"JONES PROPERTY"

LOT-47
"SENECA PARK BEACH" 8/45
TAX MAP: 91 GRID: 17 PARCEL: 139
DEED REFERENCE: 32617/407
BALTIMORE COUNTY, MARYLAND
15th ELECTION DISTRICT C6
02/20/2014 SCALE:1"=30' JOB No. ~~9835~~

10260





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REVISION DATED 4/29/2014
REVISED PER ADMINISTRATIVE LAW JUDGE ORDER DATED 4/23/14.
CASE No. 2014-0172-A

REVISED 2/24/2014: M.V.M.
REVISED 4/29/2014: M.V.M.

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0' 30' 60' 90'

STATE OF MARYLAND
VINCENT MOSKUNAS
No. 21175
PROFESSIONAL LAND SURVEYOR

Michael V. Moskunas
4/30/14

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