

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(4543 Bennerton Drive)		
14 th Election District	*	OFFICE OF ADMINISTRATIVE
5 th Council District		
Reddy Vishnunandan and	*	HEARINGS FOR
Phousavanh Vilivanh		
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0173-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owners of the property, Reddy Vishnunandan and Phousavanh Vilivanh. The Petitioners are requesting Variance relief from §§ 1B01.2.C.1.b and 301.1.A of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an open projection deck with a setback of 16 ft. in lieu of the required rear yard setback of 22.5 ft. 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.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on February 2, 2015, 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 as required by Section 32-3-303 of the Baltimore County Code (B.C.C.). 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 Administrative Law

ORDER RECEIVED FOR FILING

Date 3-12-15
bw

Judge, 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 Petitioners.

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, this 12th day of **March, 2015**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from §§ 1B01.2.C.1.b and 301.1.A of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an open projection deck with a setback of 16 ft. in lieu of the required rear yard setback of 22.5 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.

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



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw

ORDER RECEIVED FOR FILING

2

Date 3-12-15

By SW



KEVIN KAMENETZ
County Executive

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

March 12, 2015

Reddy Vishnunandan and Phousavanh Vilivanh
4543 Bennerton Drive
Baltimore, Maryland 21236

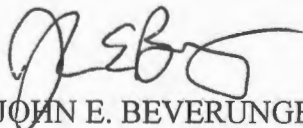
RE: Petition for Administrative Variance
Case No. 2015-0173-A
Property: 4543 Bennerton Drive

Dear Petitioners:

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:dlw
Enclosure

c: Ryan Tolson, 10509 Stanl Road, White Marsh, MD 21162



ADMINISTRATIVE ZONING PETITION

FOR ADMINISTRATIVE VARIANCE - OR - ADMINISTRATIVE SPECIAL HEARING

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

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

Address 4543 Bennerton Dr. Currently zoned DR3-5
 Deed Reference 34676 / 1000384 10 Digit Tax Account # 2500003496
 Owner(s) Printed Name(s) Reddy Vishnunandan Phousavanh Vilivanh

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

For Administrative Variances, the Affidavit on the reverse of this Petition form must be completed and notarized.

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

1. **X** ADMINISTRATIVE VARIANCE from Section(s) 1001.2.C.1.b & 301-1 BCZR
To permit an open projection deck with a setback of 16'
in lieu of the required rear yard setback of 22.5'
 of the zoning regulations of Baltimore County, to the zoning law of Baltimore County.

2. _____ ADMINISTRATIVE SPECIAL HEARING to approve a waiver pursuant to Section 32-4-107(b) of the Baltimore County Code: (indicate type of work in this space: i.e., to raze, alter or construct addition to building)

of the Baltimore County Code, to the development law of Baltimore County.

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

I/we agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Owner(s)/Petitioner(s):

Reddy Vishnunandan / Phousavanh Vilivanh
 Name #1 - Type or Print Name #2 - Type or Print
[Signature] / [Signature]
 Signature #1 Signature #2
4543 Bennerton Dr. Baltimore MD
 Mailing Address City State
21236 / 410-610-0816
 Zip Code Telephone # Email Address

Representative to be contacted:

Ryan Tolson
 Name - Type or Print
[Signature]
 Signature
10509 Stahl Rd. White Marsh MD
 Mailing Address City State
21162 / 410-258-2308 / rytolson1@yahoo.com
 Zip Code Telephone # Email Address

Attorney for Owner(s)/Petitioner(s):

Name- Type or Print
 Signature
 Mailing Address City State
 Zip Code Telephone # Email Address

A PUBLIC HEARING having been formally demanded and/or found to be required, it is ordered by the Office of Administrative Hearings for Baltimore County, this _____ day of _____ that the subject matter of this petition be set for a public hearing, advertised, and re-posted as required by the zoning regulations of Baltimore County.

Administrative Law Judge for Baltimore County

CASE NUMBER 2015-0173-A Filing Date 2/10/15 Estimated Posting Date 2/22/15 Reviewer Jm

Affidavit in Support of Administrative Variance

(THIS AFFIDAVIT IS NOT REQUIRED FOR AN HISTORIC ADMINISTRATIVE SPECIAL HEARING)

The undersigned hereby affirms under the penalties of perjury and upon personal knowledge to the Administrative Law Judge for Baltimore County, that the information herein given is true and correct and that the undersigned is/are competent to testify in the event that a public hearing is scheduled in the future with regard thereto. In addition, the undersigned hereby affirms that the property is not the subject of an active Code Enforcement case and that the residential property described below is owned and occupied by the undersigned.

Address: 4543 Bennerton Dr. Baltimore MD 21236
Print or Type Address of property City State Zip Code

Based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address. (Clearly state practical difficulty or hardship here)

We are looking to build a deck and with current setbacks in place we would only be able to go out from house 7 1/2' with the deck. Other homes in the general area have decks that extend beyond the 7 1/2'. This space (7 1/2') would not provide enough space to make it useful as an extension of our home. We are asking to extend deck out to 14' from rear of house to have enough space to be useful and functional. We fear if built out to 7 1/2' we may have trouble with resale of our home. Our hardship is unique to our property b/c the house is placed directly on the 30' required setback. We were not made aware of this when we bought the home. Going out the 7 1/2' would render conformance burdensome. The grant would allow for conformity in the community. If granted in no way would it affect the spirit of the ordinance and public safety. The relief will be in strict harmony with the spirit and intent of height, area, parking. The grant also would cause no injury to public health or safety.
(If additional space for the petition request or the above statement is needed, label and attach it to this Form)

Vishnu
Signature of Owner (Affiant)

S. Vishnunandan Reddy
Name- Print or Type

Vilivanh
Signature of Owner (Affiant)

VILIVANH Phounsavanh
Name- Print or Type

The following information is to be completed by a Notary Public of the State of Maryland

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 6 day of February, 2015, before me a Notary of Maryland, in and for the County aforesaid, personally appeared:

Print name(s) here: C. Vishnunandan Reddy and Vilivanh Phounsavanh

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notaries Seal

JAMIE RAE SCALICE

Notary Public
Baltimore County
Maryland

My Commission Expires Nov. 21, 2018

Jamie Rae Scalice
Notary Public

11/21/18
My Commission Expires

Zoning Property Description For: 4543 Bennerton Drive.
Baltimore, MD 21236

Beginning at a point on the North side of Bennerton Dr. which is
28 feet wide at the distance of 148 feet ^{West} east of the centerline of the
nearest improved intersecting Ridge Rd. which is 24 feet wide.

Being Lot # 9 in the subdivision of Kiefer Property as recorded in
Baltimore County Plat Book # 78, Folio # 290 , containing 22,805
Square Feet. Located in the 14th Election District and 5th Council
District.

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

No. **119799**

Date: **2/13/15**

Fund	Dept	Unit	Sub Unit	Rev	Sub	Obj	Sub Obj	Dept Obj	BS Acct	Amount
				Source/	Rev/					
001	806	10000		6157						75.00

Total: **75.00**

Rec From: **A Plus Remodeling, LLC**

For: **Admin. Expenses**
4543 Bonaparte Dr.
2016-0173-A

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

CASHIER'S
VALIDATION

BALTIMORE COUNTY DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2015- 0173 -A Address 4543 BENNERTON DR.

Contact Person: J. Fernando Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 2/13/15 Posting Date: 2/22/15 Closing Date: 3/9/15

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

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

(Detach Along Dotted Line)

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

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 2015- 0173 -A Address 4543 BENNERTON DR.

Petitioner's Name REDDY Vishnunarayan Telephone 443-610-816

Posting Date: 2/22/15 Closing Date: 3/9/15

Wording for Sign: To Permit an open projection deck with a setback
of 16' in lieu of the required rear yard setback of 22.5'

Revised 7/18/14

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighborhood 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 legal owner/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 legal owner/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:

Case Number: 2015-0173-A

Property Address: 4543 Bennerton Dr.

Property Description: Baltimore MD 21236

Legal Owners (Petitioners): Vishnuandan Reddy, Vilivanh Phousavanh

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Ryan Tolson

Company/Firm (if applicable): A+ Remodeling

Address: 10509 Stahl Rd.

White Marsh, MD 21162

Telephone Number: 410-258-2308

CERTIFICATE OF POSTING

CASE NO: 2015-0173-A

PETITIONER/DEVELOPER

REDDY VIOTHUMANDAN

DATE OF HEARING/CLOSING:

MARCH 9, 2015

BALTIMORE CITY DEPARTMENT OF PLANNING
417 E. FAYETTE STREET 8TH FLOOR
BALTIMORE MD 21202

ATTENTION:

LADIES AND GENTLEMEN:

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

4543 BENNETT DR

THIS SIGN(S) WERE POSTED ON February 22, 2015
(MONTH, DAY, YEAR)

SINCERELY,

Martin Ogle 2/22/15
SIGNATURE OF SIGN POSTER AND DATE:

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

ZONING NOTICE
ADMINISTRATIVE VARIANCE
CASE # 2015-0173-A
TO PERMIT AN OPEN PROTECTION DECK WITH A SETBACK OF 16' IN LIEU OF THE REQUIRED REAR YARD SETBACK OF 22.5'
PUBLIC HEARING ?
PURSUANT TO SECTION 26-127(b) (1), BALTIMORE COUNTY CODE
AN ELIGIBLE INDIVIDUAL OR GROUP MAY REQUEST A PUBLIC HEARING CONCERNING THE PROPOSED VARIANCE, PROVIDED IT IS DONE IN THE ZONING OFFICE BEFORE 4:30 p.m. ON MONDAY, MARCH 9, 2015
ADDITIONAL INFORMATION IS AVAILABLE AT ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
111 W. CHESAPEAKE AVE.
TOWSON, MD. 21284
TEL. 410-887-3391
DO NOT REMOVE THIS SIGN AND POST UNTIL AFTER ABOVE DATE. VIOLATION PENALTY OF LAW
MEETING IS HANDICAP ACCESSIBLE

myalt gl 2/22/15

M E M O R A N D U M

DATE: April 14, 2015
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2015-0173-A – Appeal Period Expired

The appeal period for the above-referenced case expired on April 13, 2015. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: ✓ Case File
Office of Administrative Hearings

CASE NO. 2015- 0173-A

CHECKLIST

Support/Oppose/
Conditions/
Comments/
No Comment

Comment
Received

Department

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

DEPS
(if not received, date e-mail sent _____)

FIRE DEPARTMENT

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

2-25

STATE HIGHWAY ADMINISTRATION

No objection

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT Date: _____

SIGN POSTING Date: 2-2-15 by Ogle

PEOPLE'S COUNSEL APPEARANCE Yes ☐ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: _____



KEVIN KAMENETZ
County Executive

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

March 10, 2015

Reddy Vishnunandan
Phousavanh Vilivanh
4543 Bennerton Drive
Baltimore MD 21236

RE: Case Number: 2015-0173 A, Address: 4543 Bennerton Drive

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on February 13, 2015. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
Ryan Tolson, 10509 Stahl Road, White Marsh MD 21162

Lawrence J. Hogan, Jr., Governor
Boyd K. Rutherford, Lt. Governor



Pete K. Rahn, Acting Secretary
Melinda B. Peters, Administrator

Date: 2/25/15

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

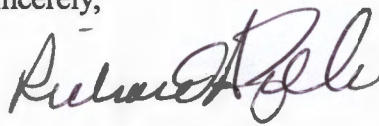
RE: Baltimore County
Item No. 2015-0173-A
Administrative Variance
Reddy & Phousavanh Vilivanh
4543 Bennerton Drive

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. 2015-0173-A.

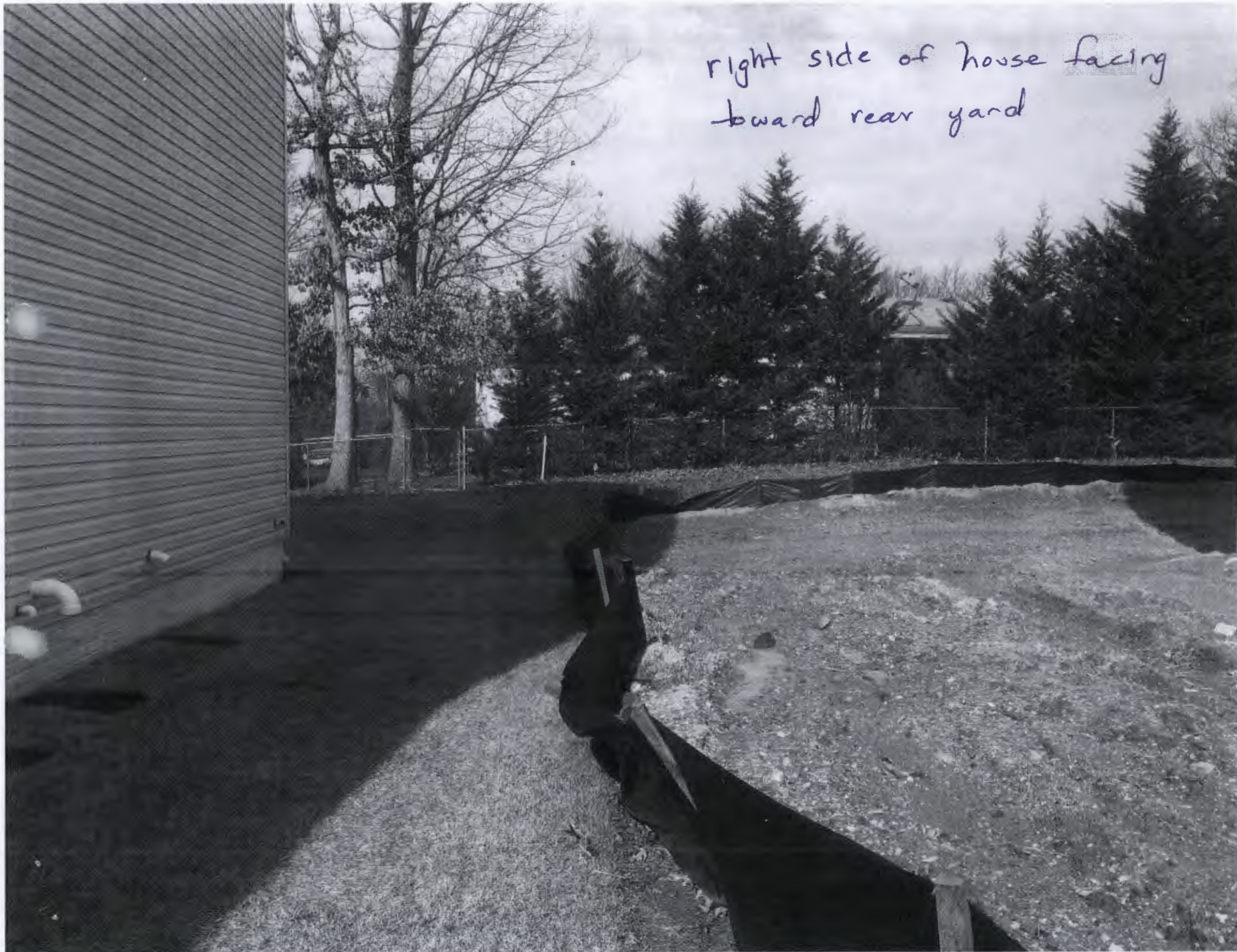
Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-545-5598 or 1-800-876-4742 (in Maryland only) extension 5598, or by email at (rzeller@sha.state.md.us).

Sincerely,


Steven D. Foster, Chief/
Development Manager
Access Management Division

SDF/raz

right side of house facing
toward rear yard





Left rear yard

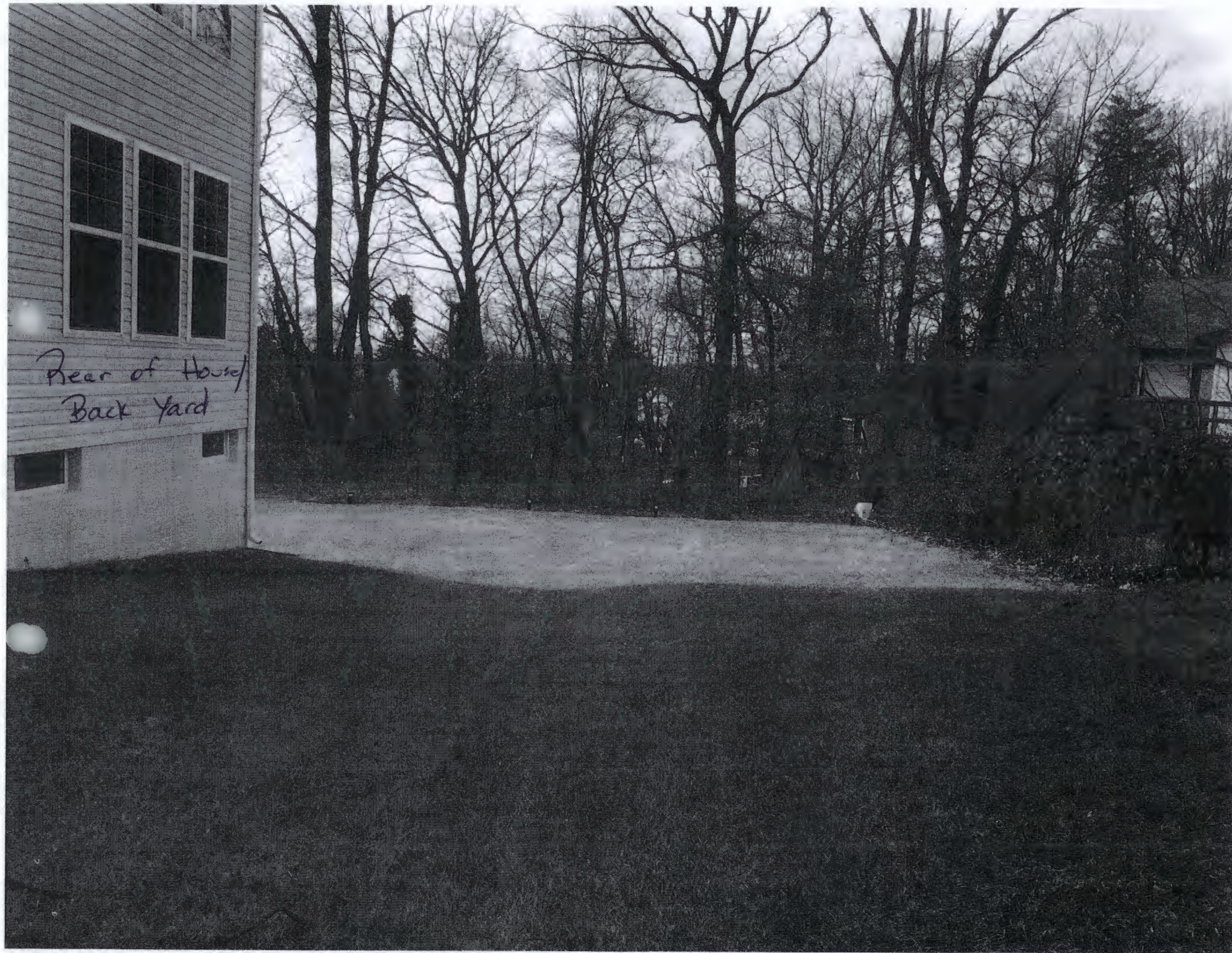


side of house (right)



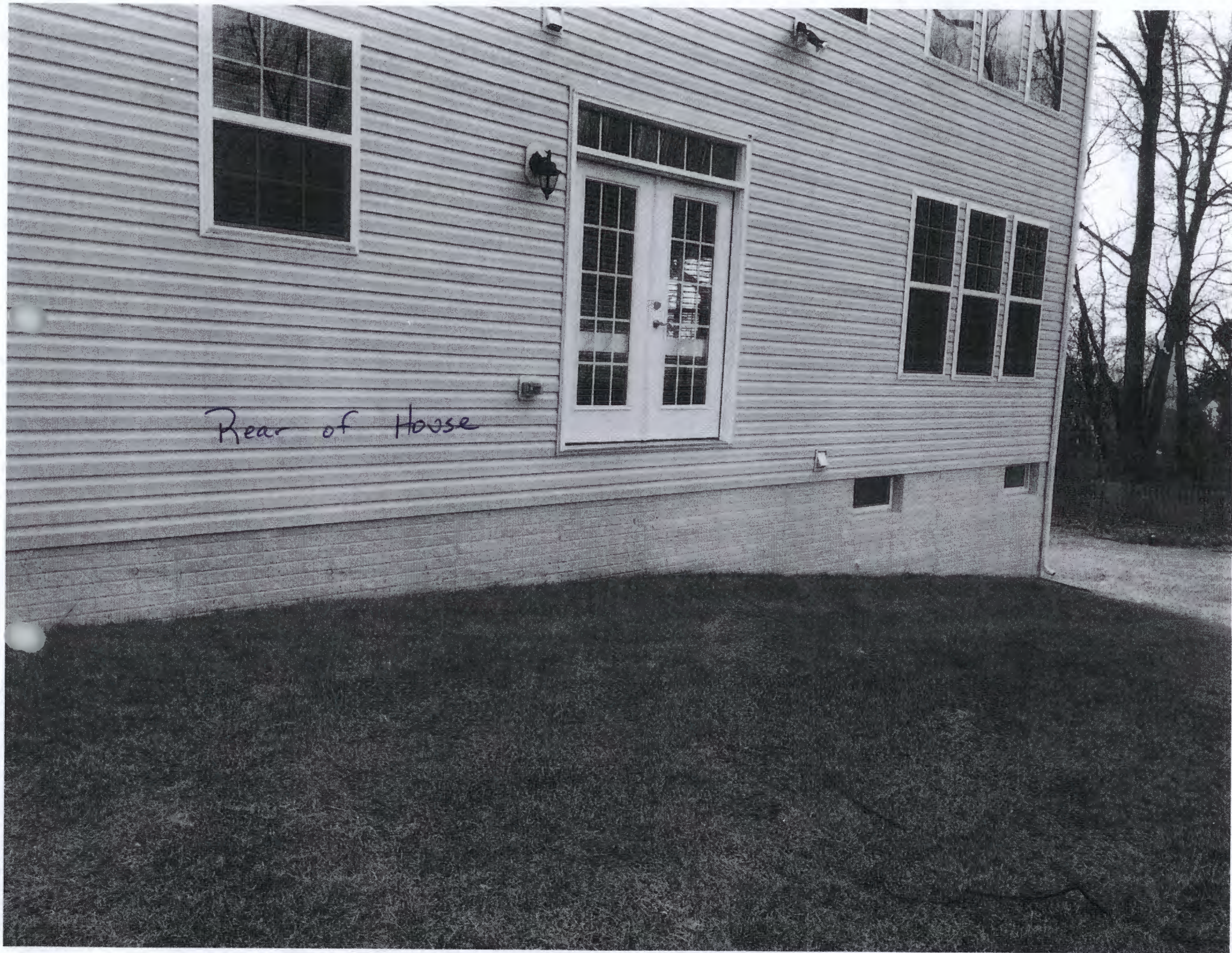


side view of rear yard



Rear of House /
Back Yard

Rear of House



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

ADDRESS 4543 BENNERTON DR. OWNER(S) NAME(S) REDDY, VISHNUNANDAN & PROUDH. VILAVANTH

SUBDIVISION NAME KIEFER PROPERTY LOT # 9 BLOCK # SECTION #

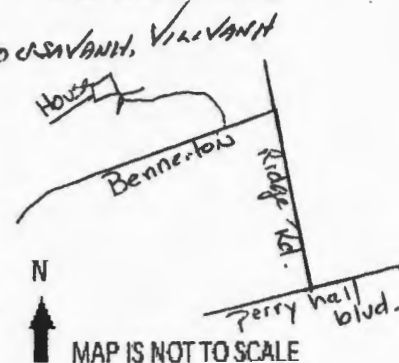
PLAT BOOK # 0078 FOLIO # 0290 10 DIGIT TAX # 25-00003496 DEED REF. # 34676 / 00384

SEE ATTACHED



PLAN DRAWN BY Ryan Tolson DATE 2/9/15 SCALE: 1 INCH = 60' FEET

SITE VICINITY MAP



ZONING MAP# 081C1

SITE ZONED DR 3.5

ELECTION DISTRICT 14

COUNCIL DISTRICT 5th

LOT AREA ACREAGE 22805.1

OR SQUARE FEET 228059

HISTORIC? No

IN CBCA? No

IN FLOOD PLAIN? No

UTILITIES? MARK WITH X

WATER IS:

PUBLIC ☒ PRIVATE ☐

SEWER IS:

PUBLIC ☒ PRIVATE ☐

PRIOR HEARING? No

IF SO GIVE CASE NUMBER

AND ORDER RESULT BELOW

VIOLATION CASE INFO:

Per. Ex. 1

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

ADDRESS 4543 BENNERTON DR. OWNER(S) NAME(S) REDDY, VISHNUNANDAN & PROUSAVANIT, VISHNUNANDAN

SUBDIVISION NAME KIEFER PROPERTY LOT # 9 BLOCK # _____ SECTION # _____

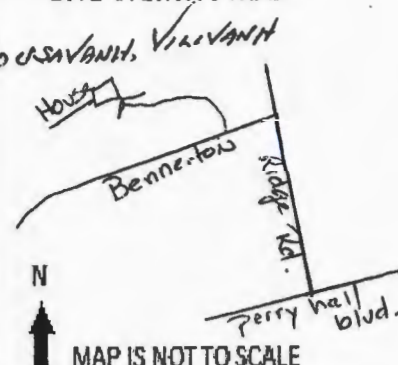
PLAT BOOK # 0078 FOLIO # 0290 10 DIGIT TAX # 25-00003496 DEED REF. # 34676 / 00384

SEE ATTACHED



PLAN DRAWN BY Ryan Tolson DATE 2/9/15 SCALE: 1 INCH = 60' FEET

SITE VICINITY MAP



MAP IS NOT TO SCALE

ZONING MAP# 081C1

SITE ZONED DR 3.5

ELECTION DISTRICT 14

COUNCIL DISTRICT 5th

LOT AREA ACREAGE 22805.4

OR SQUARE FEET 228054

HISTORIC? No

IN CBCA? No

IN FLOOD PLAIN? No

UTILITIES? MARK WITH X

WATER IS:

PUBLIC ☒ PRIVATE _____

SEWER IS:

PUBLIC ☒ PRIVATE _____

PRIOR HEARING? No

IF SO GIVE CASE NUMBER

AND ORDER RESULT BELOW

VIOLATION CASE INFO:



Scale 1" = 60'

Bernbrook Dr.

at Ridge Rd.

145' west from the 2