

MEMORANDUM

DATE: November 26, 2019
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2019-0416-A - Appeal Period Expired

The appeal period for the above-referenced case expired on November 25, 2019. 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.'

/dlw

c:  Case File
Office of Administrative Hearings

IN RE: **PETITIONS FOR SPECIAL HEARING *
AND VARIANCE**
(1728 Selma Avenue) *

13th Election District *
1st Council District *
1728 Selma Avenue, LLC *
Legal Owner *
Petitioner *

BEFORE THE
OFFICE OF
ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY
**Case Nos. 2019-0418-SPHA
2019-0416-A**

* * * * *

OPINION AND ORDER

These consolidated cases come before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of 1728 Selma Avenue, LLC, legal owner (“Petitioner”). The Special Hearing in **Case No. 2019-0418-SPHA** was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to confirm that a merger did not take place between Lot 330 and combined Lots 328 and 328 ½ . In addition, a Petition for Variance was filed in that case pursuant to Section 1B02.3.C.1 of the BCZR to permit an existing dwelling with a lot width of 50 ft. in lieu of the required 55 ft. In **Case No. 2019-0416-A** a Petition for Variance was filed pursuant to Section 1B02.3.C.1 of the BCZR to permit a 10 foot side yard setback in lieu of the required 25 foot side yard setback. A site plan was marked and accepted into evidence as Petitioner’s Joint Exhibit 1.

Philip L. Reidel, the property owner, appeared in support of the requested relief in both cases. Michael McAuliffe, the President of the Halethorpe Improvement Association, appeared in opposition to the requested variances in both cases. The Petitions were advertised and posted as required by the BCZR. No substantive Zoning Advisory Committee (“ZAC”) comments were received from any of the County reviewing agencies in **Case No. 2019-0418-SPHA**. In **Case No.**

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Date

10/24/19

By

Sen

2019-0416-A comments were received from the Department of Planning (DOP) and are hereby incorporated.

With regard to the question of merger, Mr. Reidel testified that his parents bought this parcel (lot 330), along with the adjoining lots (328 and 328 ½) upon which they built the home at 1728 Selma Avenue. Mr. Reidel inherited that home when his parents passed away. He grew up there. He testified that the family has owned all three parcels since the 1950s and that lot 330 has always been vacant and has never had any structures of any kind on it. The only use it has had is as the family's vegetable garden many years ago. Neighborhood kids have also played there over the years. These facts were confirmed by Mr. McAuliffe, who has also lived in the neighborhood his whole life.

Regarding the request for variance relief, Mr. Seidel testified that he and his wife, who also attended the hearing, are in the process of planning for retirement and they want to have the option of selling this lot as a buildable lot, if necessary, in the future. He testified that he just recently learned that the parcel had been rezoned so as to now require a 55 foot wide lot for a dwelling. He explained that he and his wife have paid taxes on this parcel, as well as on the adjoining property at 1728 Selma Avenue, ever since they inherited the properties from his parents. He still owns the home and this parcel and has always been diligent in maintaining the properties. Over the years he has allowed his daughter and other family members to live in the home. These facts were also confirmed by Mr. McAuliffe, who has known the Reidel family his entire life. Mr. Reidel explained that it would be a significant financial hardship if lot 330 were deemed unbuildable.

Mr. McAuliffe testified on behalf of the Halethorpe Improvement Association and submitted a letter from the Association opposing the variances. (Protestants' Joint Exhibit 1). He also submitted aerial photographs of the neighborhood which were admitted as Joint Exhibits 2, 3,

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Date 10/24/19
By sen

and 4. He explained that the Reidels have always been good neighbors and that they are respected in the neighborhood. He explained that he understands the Reidel's financial hardship if this relief were denied but that the Improvement Association feels that is necessary to try to draw the line on future development since the neighborhood has experienced substantial "infill" and some of the new housing has been substandard in their view. He did acknowledge that there are many existing homes in the neighborhood that were built on the 50 foot lots that were laid out in the original development plat. He further acknowledged that other variances from the 55 foot width requirement have been granted in the neighborhood.

SPECIAL HEARING

Based on the evidence detailed above, I find that no merger has occurred between the parcels at 1728 Selma Avenue and lot 330, the parcel in question. Lot 330 has always been a separate lot and the Reidels have always paid separate taxes on it.

VARIANCE

As to the variance, it requires a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Mr. Reidel candidly admitted that there is nothing inherently unique about parcel 330. He explained that this 50 by 145 foot wide lot was laid out just like all the others in the original development. However, I note that it is a corner lot and that it is the only lot on the block that does not have a residence on it. Further, the Petitioner also owns the home next door at 1728 Selma Avenue so the requested variance relief will not negatively impact a neighbor on that side. Further,

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Date 10/24/19

By sen

because lot 330 is a corner lot the closest home on the other side is separated by Magnolia Avenue. As such, even if a dwelling is eventually built on this lot with only the requested 10 foot side yard setback it will still not be close to the residence on the other side of Magnolia Avenue. Further, it will not be an "infill" development of the sort described as problematic by Mr. McAuliffe. As such, I find the property is sufficiently unique.

As to the second prong of the analysis, I find that if the 55 foot width, and 25 foot side yard restrictions were strictly enforced, Petitioner would experience a significant and unwarranted financial hardship because he would be unable to build a dwelling on the lot or sell it as a buildable lot. His family has owned and paid taxes on the property for almost seventy years and have maintained it all that time. I find that it would be manifestly inequitable to prevent them from developing the property after this significant investment of money, time, and labor.

Furthermore, I find that the variance can be granted in harmony with the spirit and intent of the BCZR, and in such manner as to grant relief without injury to the public health, safety and general welfare. With regard to the side yard variance, in its letter (Protestant's Exhibit 1), the community association has expressed concerns about access to underground and overhead public utilities. However, if the Petitioner or a subsequent owner does undertake to build on this lot these issues will be addressed in the development process. Further, compliance with the DOP comments, which are hereby expressly incorporated, will ensure that an architecturally compatible dwelling will be built on the site, which will alleviate some of the Community Association's concerns.

Finally, the Protestants' letter also states that "it looks like *a lot* of the houses within the extended Halethorpe area follow the 25' setback. Therefore, having the 10' setback would not be in keeping with the character and appearance of the neighborhood." However, the aerial

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Date 10/24/19

By sen

photographs submitted by the Protestants show that the setbacks in the neighborhood are not substantially uniform.

THEREFORE, IT IS ORDERED this 24th day of **October, 2019**, by this Administrative Law Judge, that the Petition for Special Hearing to confirm that a merger did not take place between Lot 330 and combined Lots 328 and 328 ½, be and is hereby GRANTED.

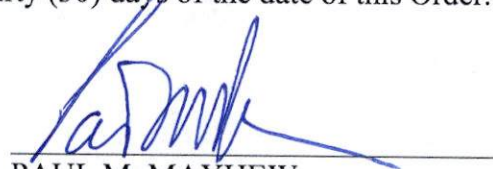
IT IS FURTHER ORDERED that the Petition for Variance to permit an existing dwelling with a lot width of 50 ft. in lieu of the required 55 ft., be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit a side yard setback of 10 feet in lieu of the required 25 feet, be and is hereby also GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its 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, Petitioner would be required to return the subject property to its original condition.
2. Pursuant to the DOP comment in Case No. 2019-0416-A, Petitioners shall provide architectural elevations to the DOP prior to the issuance of building permit. Any such architecture shall incorporate windows, shutters and other detailing into the façade facing Magnolia Avenue.

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



PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:slm

ORDER RECEIVED FOR FILING

Date 10/24/19

By sen



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 Lot 330 Selma Ave which is presently zoned DR5.5
 Deed References: 41572 / 325 1st Parcel 10 Digit Tax Account # 1318350271
 Property Owner(s) Printed Name(s) 1720 Selma Ave LLC

(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. X a Variance from Section(s) 1 BOZ.3.C.1 To Permit A proposed dwelling with A street side set Back of 10' Feet in lieu of the required 25' Feet and A lot width of 50' Feet in lieu of the required 55 Feet

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)

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

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

Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

PHILIP L. RIEDEL

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

Philip L. Riedel Signature #1 Signature #2

7158 OHIO AVE HANOVER MD
 Mailing Address City State

21076 410-908-1952
 Zip Code Telephone # Email Address

Representative to be contacted:

John Mellaona Surveyor
 Name - Type or Print

[Signature] Signature

5409 EAST DR ARBUTUS MD
 Mailing Address City State

21227 410-277-7486 JCMLEVER@COM.NET
 Zip Code Telephone # Email Address

CASE NUMBER 2019-0916A Filing Date 8/2/19

Do Not Schedule Dates: Reviewer [Signature]

John C. Mellema, Sr. Inc.
5409 East Drive
Baltimore, Maryland 21227
410-247-7488 fax 410-247-2507

Zoning Description
Lot 330 Selma Avenue
Baltimore County Maryland
Tax map 108 Grid 12 Parcel 594

Beginning for the same at a point on the Southwest side of Selma Avenue, point being 25 feet Northwesterly from the centerline of Magnolia Avenue, thence running along the Southwest side of Selma Avenue , Northwesterly 50 feet, thence Southwesterly 145 feet, thence Southeasterly 50 feet, thence Northeasterly 145 feet to the place of beginning.

Being known as lot 330 as shown on the " Plat of Halethorpe" which is recorded in Baltimore County MD plat book 1 folio 60. And being the first parcel of land described in a deed dated May 31, 2019 between Philip L. Reidel , parties of the first and 1728 Selma Ave LLC , party of the second in liber 41572 folio 325.



2019-0416-A

TO: THE DAILY RECORD
Tuesday, October 1, 2019 - Issue

Please forward billing to:
Philip Reidel
7158 Ohio Avenue
Hanover, MD 21076

410-908-1952

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: 2019-0416-A

Lot 330 Selma Avenue

S/west side of Selma Avenue at the corner of Selma Avenue and Magnolia Avenue

13th Election District – 1st Councilmanic District

Legal Owners: Philip Riedel

Variance to permit a proposed dwelling with a street side setback of 10 ft. in lieu of the required 25 ft. and a lot width of 50 ft. in lieu of the required 55 ft.

Hearing: Monday, October 21, 2019 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Michael Mallinoff

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.



JOHN A. OLSZEWSKI, JR.
County Executive

MICHAEL D. MALLINOFF, *Director*
Department of Permits,
Approvals & Inspections

September 17, 2019

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:

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105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Michael Mallinoff".

Michael Mallinoff
Director

MM:kl

C: Philip Reidel, 7158 Ohio Avenue, Hanover 21076
John Mellema Surveyors, 5409 East Drive, Arbutus 21227

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, OCTOBER 1, 2019.**
- (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.

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 10/1/2019

Case Number: 2019-0416-A

Petitioner / Developer: JOHN MELLEMA ~ PHILIP REIDEL

Date of Hearing: OCTOBER 21, 2019

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
LOT 330 SELMA AVENUE

The sign(s) were posted on: **OCTOBER 1, 2019**

ZONING NOTICE

CASE # 2019-0416-A

**A PUBLIC HEARING WILL BE HELD BY
THE ADMINISTRATIVE LAW JUDGE
IN TOWSON, MD**

ROOM 205, JEFFERSON BUILDING
PLACE: 105 W. CHESAPEAKE AVE, TOWSON MD 21204
DATE AND TIME: MONDAY, OCTOBER 21, 2019
AT 1:30 P.M.

VARIANCE TO PERMIT A PROPOSED DWELLING
WITH A STREET SIDE SETBACK OF 10 FT. IN LIEU
OF THE REQUIRED 25 FT. AND A LOT WIDTH OF 50
FT. IN LIEU OF THE REQUIRED 55 FT.
LOT 330 SELMA AVENUE

NO DISCRIMINATION: IT IS THE POLICY OF THE COUNTY OF BALTIMORE AND THE CITY OF TOWSON TO PROVIDE EQUAL OPPORTUNITIES FOR ALL PERSONS WITHOUT REGARD TO RACE, COLOR, SEX, AGE, RELIGION, ANCESTRY, NATIONAL ORIGIN, OR HANDICAP. ANY DISCRIMINATION IN THE PROVISION OF SERVICES OR BENEFITS WILL BE PROSECUTED TO THE FULL EXTENT OF THE LAW.

Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

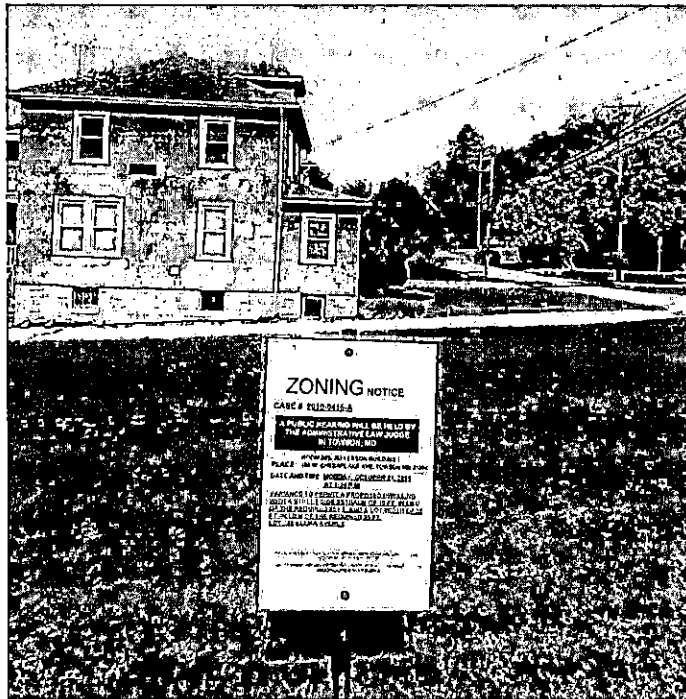
523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 - 666 - 5366
(Telephone Number of Sign Poster)



Background Photo 1st Sign @ Lot 330 Selma Avenue ~ 10/1/2019



Background Photo 2nd Sign @ Lot 330 Selma Avenue ~ 10/1/2019
 Corner of Selma Avenue 7 Magnolia Avenue
CASE # 2019-0416-A

RE: PETITION FOR VARIANCE

*

BEFORE THE OFFICE

Lot 330 Selma Avenue; SW/S of Selma Avenue,*
at corner of Selma & Magnolia Avenues
13th Election & 1st Councilmanic Districts *
Legal Owner(s): 1728 Selma Ave, LLC
Petitioner(s) *

OF ADMINISTRATIVE

HEARINGS FOR

BALTIMORE COUNTY

*

2019-416-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.

RECEIVED

AUG 13 2019

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of August, 2019, a copy of the foregoing Entry of Appearance was mailed to John Mellema Surveyors, 5409 East Drive, Arbutus, Maryland 21227, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

The Daily Record

200 St. Paul Place Suite 2480

Baltimore, Maryland 21202

1 (443) 524-8100

www.thedailyrecord.com

PUBLISHER'S AFFIDAVIT

We hereby certify that the annexed advertisement was published in The Daily Record, a daily newspaper published in the State of Maryland 1 times on the following dates:

10/1/2019

Order #: 11793918
Case #: 2019-0416-A
Description:

NOTICE OF ZONING HEARING - CASE NUMBER: 2019-0416-A



Darlene Miller, Public Notice Coordinator
(Representative Signature)

Baltimore County
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: 2019-0416-A Lot 330 Selma Avenue S/West side of Selma Avenue at the corner of Selma Avenue and Magnolia Avenue 13th Election District - 1st Councilmanic District Legal Owners: Philip Riedel. Variance to pennit a proposed dwelling with a street side setback of 10 ft. in lieu of the required 25 ft. and a lot width of 60 ft. in lieu of the required 65 ft. Hearing: Monday, October 21, 2019 at 1:30 p.m. in Room 206, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204 Michael Mall Inoff 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. 01

**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/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 legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) 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: 2019-0416-A

Property Address: LOT 330 SELMA AVE

Property Description: _____

Legal Owners (Petitioners): 1728 SELMA AVE LLC

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Philip REIDEL

Company/Firm (if applicable): _____

Address: 7158 OHIO AVE

HANOVER MD 21076

Telephone Number: 410-908-1952

Revised 7/9/2015

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

PLEASE PRESS HARD!!!!



JOHN A. OLSZEWSKI, JR.
County Executive

MICHAEL D. MALLINOFF, *Director*
Department of Permits,
Approvals & Inspections

October 09, 2019

John Mellema
5409 East Dr.
Arbutus MD 21227

RE: Case Number: 2019-0416-A, Lot 330 Selma Ave

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 August 02, 2019. 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, appearing to read "W. Carl Richards, Jr.", is written over a horizontal line.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR/kl

Enclosures

c: People's Counsel
Philip L. Riedel 7158 Ohio Ave Hanover MD 21076

BALTIMORE COUNTY, MARYLAND

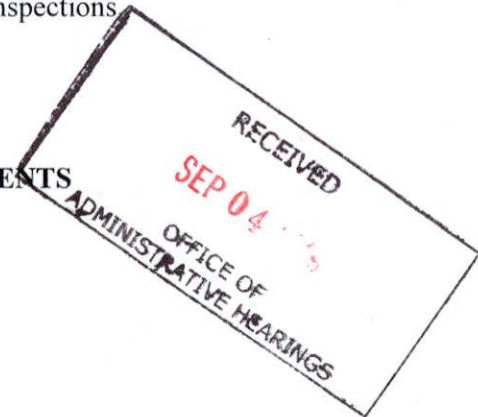
INTER-OFFICE MEMORANDUM

TO: Michael D. Mallinoff
Director, Department of Permits, Approvals and Inspections

DATE: 8/28/2019

FROM: C. Pete Gutwald
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-416



INFORMATION:

Property Address: 1730 Selma Avenue
Petitioner: Philip Riedel
Zoning: DR 5.5
Requested Action: Variance

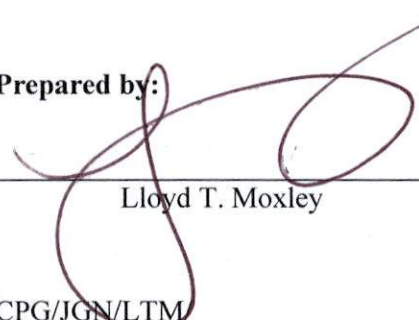
The Department of Planning has reviewed the petition for variance to permit a street side setback of 10 feet and a lot width of 50 feet in lieu of the required 25 feet and 55 feet respectively for a new dwelling.

The Department has no objection to granting the petitioned zoning relief conditioned upon the following:

- Petitioners shall provide architectural elevations to the contact person listed below prior to the issuance of a building permit. Any such architecture shall incorporate windows, shutters, and other detailing into that façade facing Magnolia Avenue. The Department of Planning will not support a blank facade.

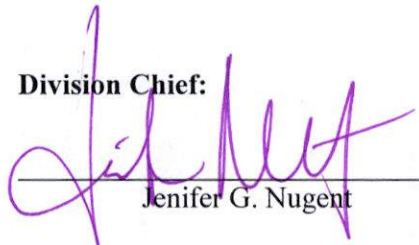
For further information concerning the matters stated herein, please contact Ngone Seye Diop at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Division Chief:



Jenifer G. Nugent

CPG/JGN/LTM

c: Ngone Seye Diop
John Mellema, Surveyor
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: Michael D. Mallinoff
Director, Department of Permits, Approvals and Inspections

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Director, Department of Planning

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Case Number: 19-416

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Zoning: DR 5.5
Requested Action: Variance

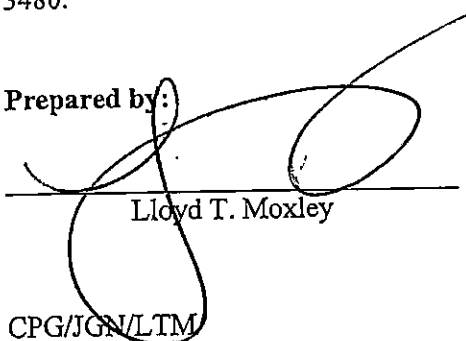
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For further information concerning the matters stated herein, please contact Ngone Seye Diop at 410-887-3480.

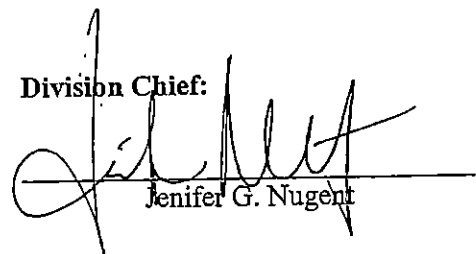
Prepared by:



Lloyd T. Moxley

CPG/JGN/LTM

Division Chief:

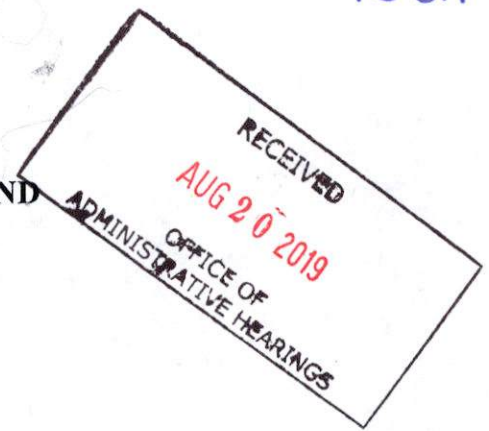


Jennifer G. Nugent

c: Ngone Seye Diop
John Mellema, Surveyor
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: August 20, 2019

SUBJECT: DEPS Comment for Zoning Item # 2019-0416-A
Address 330 Selma Avenue
(1728 Selma Avenue, LLC Property)

Zoning Advisory Committee Meeting of **August 9, 2019**.

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Reviewer: Steve Ford



MDOT
MARYLAND DEPARTMENT
OF TRANSPORTATION
STATE HIGHWAY
ADMINISTRATION

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Pete K. Rahn
Secretary
Gregory Slater
Administrator

Date: 8/14/19

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

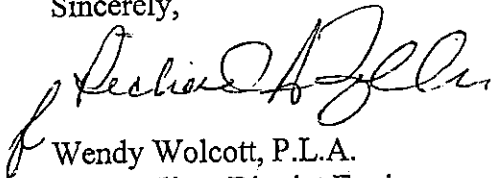
Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the Case number referenced below. 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 Case No. 2019-0416-A

VARIANCE
1728 Selma Avenue, LLC
LOT 330 Selma Avenue

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at (rzeller@sha.state.md.us).

Sincerely,



Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

WW/RAZ

Consolidated

Case Nos: 2019-0416-A and Case No 2019-0418 SPHA

Exhibit Sheet

11-26-19
LW

10/24/19
Sen

Petitioner/Developer

Protestants

No. 1	Site Plan	Community Ass'n letter
No. 2		Aerial Photo
No. 3		Aerial Photo
No. 4		Aerial Photo
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



Halethorpe Improvement Association
P.O. Box 7306
Halethorpe, MD 21227

To whom it may concern,

In regard to Zoning Case no. 2019-0416-A, The Halethorpe Improvement Association (HIA) would like to submit to the Administrative Law Judge its objection to the requested variance. The HIA officers and Board members have reviewed the county plans and have an understanding of what is being requested by the property owner. We are not in favor of the county permitting a dwelling with a street side setback of 10 feet in lieu of the required 25 ft. setback.

We realize that several nearby dwellings have been built with a street side setback of less than 25 ft., and may be used as an argument to allow this variance, but these were built before Balto. Co. had adopted Zoning Regulations, and therefore were grandfathered in. Property owners have asked for variances to build on lots since that time, with variances granted, and it has created a crowded infill environment not conducive with current Zoning intentions. HIA would like to stem this trend in hopes of keeping our neighborhood environment as the Balto. Co. Zoning Regs. have intended. If constantly allowing the Zoning regs. to be overlooked, bypassed, and deviated from, then they would have been formulated and drafted in vain. We ask that you look at the character and spacing of the expanded neighborhood rather than simply comparing a few adjacent properties when making your decision.

Other points of particular objection by the HIA Board are:

- Setbacks are created to allow room for public utilities (underground or above ground wires). There are electrical wires above and also street lights along this section of Magnolia. A setback of 10' may not allow enough space to accommodate or allow possible access to service these utilities. I would not want to have a house built so close to the poles and wires.
- It looks like a lot of the houses within the extended Halethorpe area follow the 25' setback. Therefore, having the 10' setback would not be in keeping with the character and appearance of the neighborhood.

HIA Officers:

Michael McAuliffe; President
William Carter; Vice President
Sandra Cullen; Treasurer
Maria McAuliffe; Recording Secretary

HIA Board of Directors:

Jack Schaefer
Kris Koelbel
Stephen Mangano
Janice Hedemann
Elizabeth Schaefer
Scot Wesoloski
Charles Kokoski

PROTESTANT' S

EXHIBIT NO. 1

Lot # 318
1313401370

1720

Lot # 320 1319510040

1722

Lot # 322 1302002410

1724

Pt. Bk. 0000005, Folio 0040
1314650300

Lot # 324

1726

Lot # 326 1321300060

1728

Lot # 323
1307470220

1 CD 13 ED
108C2 DR 5.5

PAI # 138005

PAI # 138005

Lot # 325

SW 6-D

Lot # 328 1318350270

Pt. Bk./Folio # 005040

Lot # 330 1318350271

Lot # 325 1304000030

Lot # 329 1319072080

1741

MAGNOLIA AVE

Lot # 332

Pt. Bk. 0000001, Folio 0060
1301920150

1800

1802

Lot # 334 1305530020

Lot # 336 1307150080

Lot # 331

1313108120
1990-0367-SPH

1801

1319610070

Lot # 333

1319510510

Lot # 11

1723

Pt. Bk./Folio # 008064
Pt. Bk. 0000008, Folio 0064
1304350130

1725

PROSPECT AVE

1801

Lot # 379 1302850360

Lot # 381 1313550350

1803

Lot # 381

SELMA AVE

1301740431

CASE NAME 1728 Selma Ave
CASE NUMBER 2019-0416-A
DATE _____

NAME _____

CITY, STATE, ZIP

E - MAIL

[illegible]

CASE NAME 1728 Selma Ave
CASE NUMBER 2019-0416-A
DATE _____

NAME

CITY, STATE, ZIP

E - MAIL

[illegible]

PM 10-21-19
1:30 PM

Debra Wiley

From: Linda Okeefe <luckylinda1954@yahoo.com>
Sent: Sunday, October 20, 2019 11:40 PM
To: Administrative Hearings
Subject: Certifications Case # 2019-0416-A & 2019-0418-SPHA SELMA AVE.
Attachments: Lot 330 Selma Ave. Cert. .jpeg; Lot 330 Selma Ave. Photos.docx; Selma Ave. Cert..jpeg

CAUTION: This message from luckylinda1954@yahoo.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Hi Debbie,

I have (2) Certs along with photos for you of Case # 2019-0416-A @ Lot 330 Selma Avenue & Case # 2019-0418-SPHA @ 1728 Selma Avenue. The photos for Selma Ave. didn't fit in this e-mail. I will send photos in another e-mail for you.

Have a nice day,

Linda

Linda O'Keefe
523 Penny Lane
Hunt Valley MD 21030
Phone # 410-666-5366
Cell# 443-604-6431
Fax# 410-666-0929
luckylinda1954@yahoo.com



SECOND CERTIFICATE OF POSTING

ATTENTION: SHERRY NUFFER

DATE: 10/20/2019

Case Number: 2019-0416-A

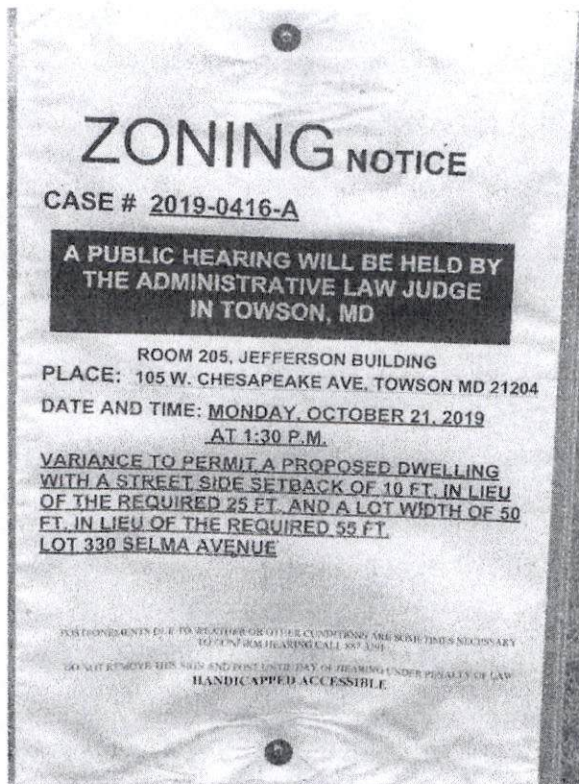
Petitioner / Developer: JOHN MELLEMA ~ PHILIP REIDEL

Date of Hearing: OCTOBER 21, 2019

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
LOT 330 SELMA AVENUE

The sign(s) were posted on: **OCTOBER 1, 2019**

The sign(s) were re-photographed on: **OCTOBER 20, 2019**



Linda O'Keefe
(Signature of Sign Poster)

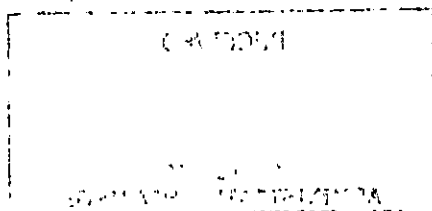
Linda O'Keefe
(Printed Name of Sign Poster)

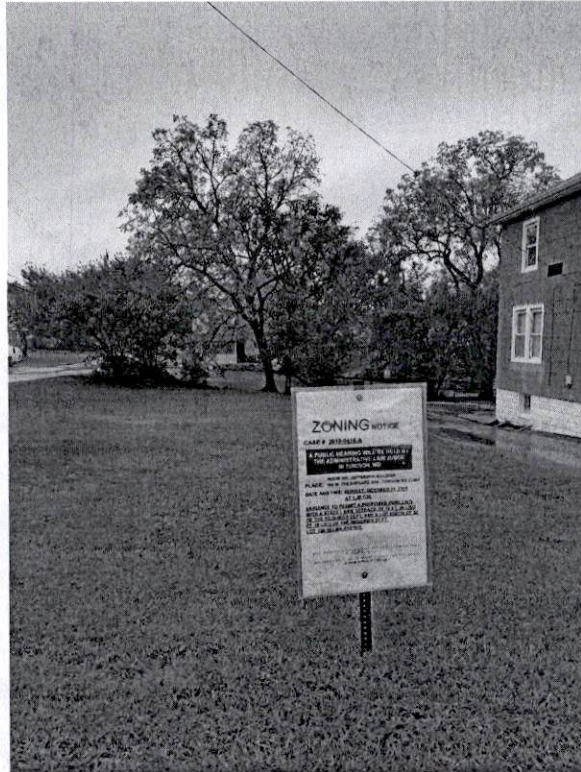
523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

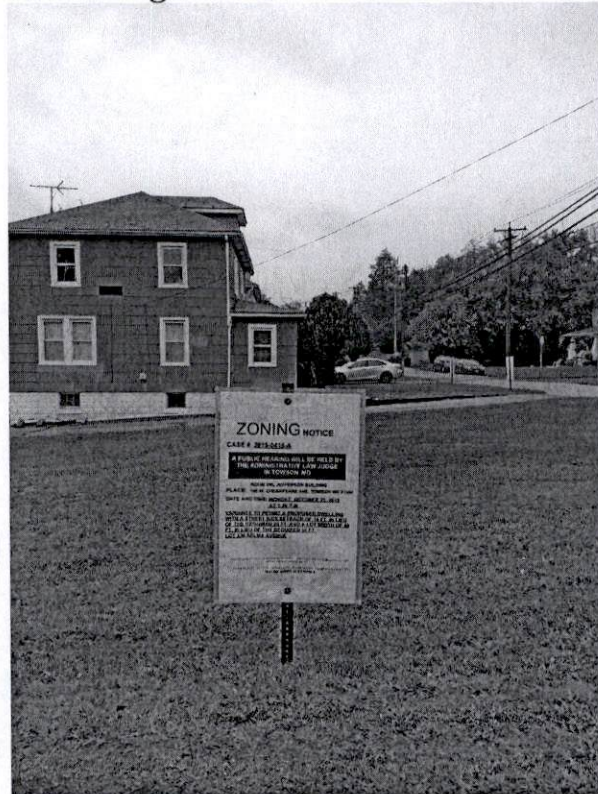
410 - 666 - 5366
(Telephone Number of Sign Poster)





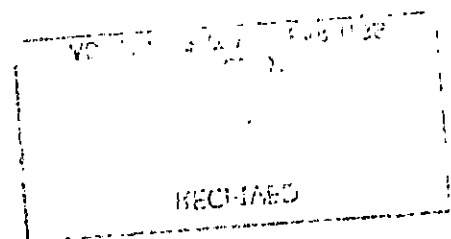


Re-Photographed 1st Sign @ Lot 330 Selma Avenue ~ 10/20/2019



Re-Photographed 2nd Sign @ Lot 330 Selma Avenue ~ 10/20/2019

CASE # 2019-0416-A



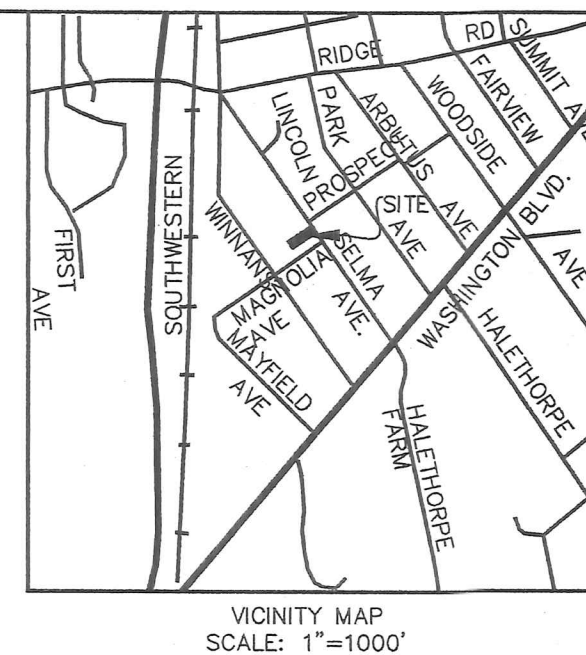
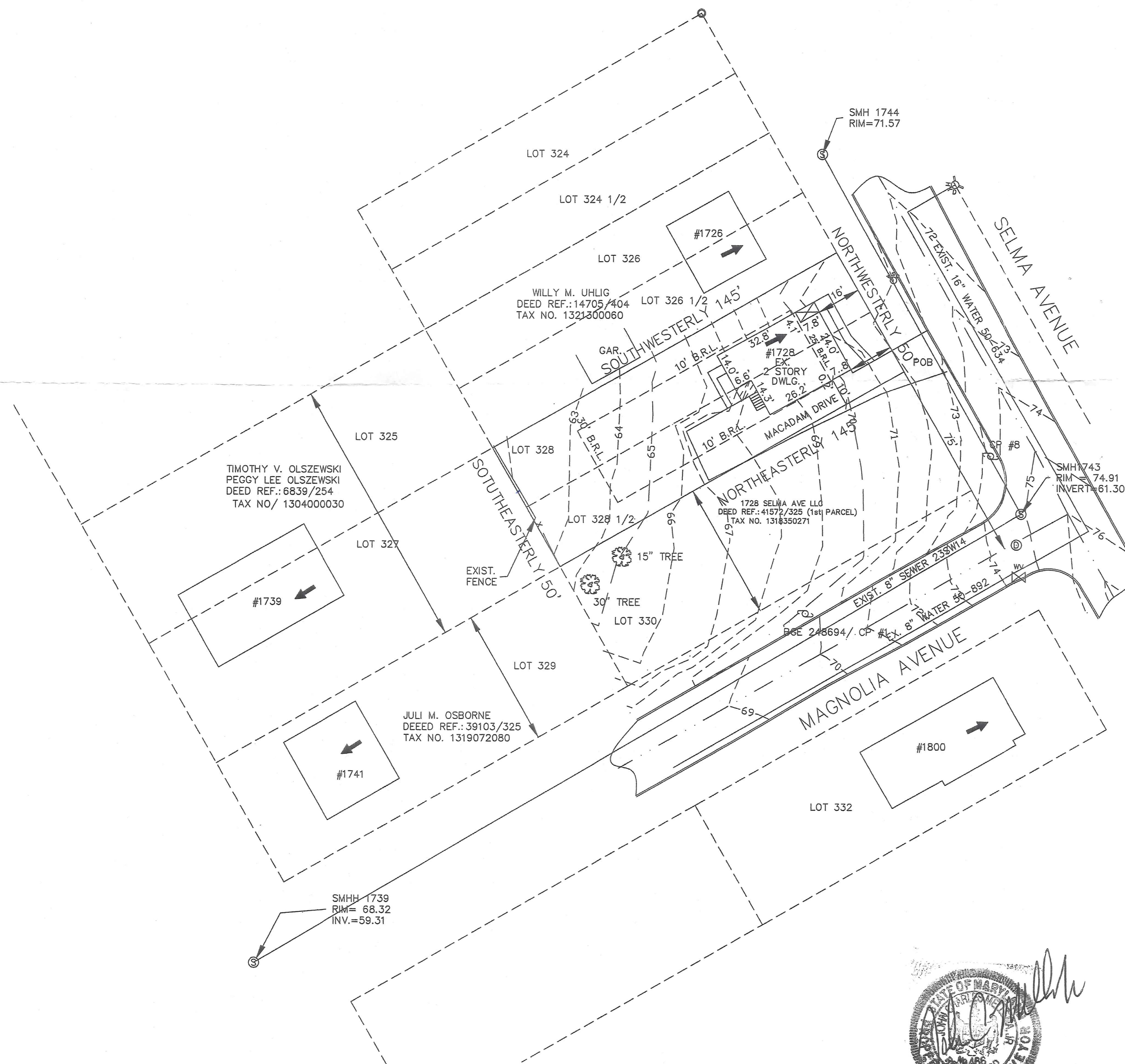
C H E C K L I S T

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/Conditions/Comments/No Comment</u>
_____	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	_____
8/20	DEPS (if not received, date e-mail sent _____)	No Comment
8/28	FIRE DEPARTMENT PLANNING (if not received, date e-mail sent _____)	No Obj w/ Condition
8/14	STATE HIGHWAY ADMINISTRATION TRAFFIC ENGINEERING	No Objection
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____
ZONING VIOLATION	(Case No. _____)	
PRIOR ZONING	(Case No. _____)	
NEWSPAPER ADVERTISEMENT	Date: 10/11/19	
SIGN POSTING (1 st)	Date: 10/11/19 by O'Keefe	
SIGN POSTING (2 nd)	Date: 10/20/19 by O'Keefe	
PEOPLE'S COUNSEL APPEARANCE	Yes ☒ No ☐	
PEOPLE'S COUNSEL COMMENT LETTER	Yes ☐ No ☐	

Comments, if any: _____

Search Result for BALTIMORE COUNTY

PLAT TO ACCOMPANY VARIANCE



LOCATION INFORMATION

COUNCILMANIC DISTRICT: 1
ELECTION DISTRICT: 13
ZONING: D.R. 5.5
1"=200' SCALE MAP: 108C2

LOT SIZE: 7,250 SQ. FT.

	YES	NO
PUBLIC SEWER	☒	☐
PUBLIC WATER	☒	☐

CHESAPEAKE BAY	YES	NO
CRITICAL AREA	☐	☒

SUBDIVISION NAME: AMENDED PLAT OF HALETHORPE
P.B. W.P.C. NO .5 FOLIO 40

PRIOR ZONING HEARING: N/A
DEED REFERENCE: 41572/325 SECOND PARCEL

OWNER: 1728 SELMA AVE LLC
7158 OHIO AVENUE
HANOVER MD 21076
PHONE: 410-908-1952

TAX NO. 1318350270

DATE: AUGUST, 2019
SCALE: 1"=30'

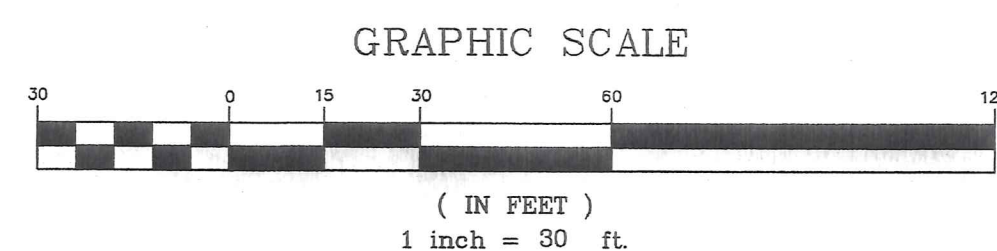
PETITIONER' S

EXHIBIT NO. 7

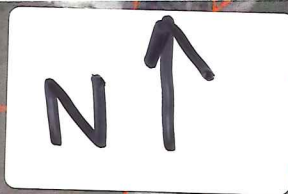
1728 SELMA AVENUE
LOT 328 & 328 1/2
AMENDED PLAT OF HALETHORPE
BALTIMORE COUNTY, MARYLAND
TAX MAP 108 GRID 12 PARCEL 594
SCALE: 1"=30' DATE: AUGUST, 2019

CASE # 2019-0418-SPHA

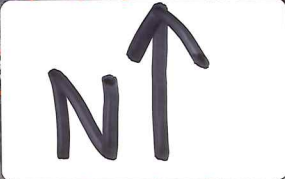
PREPARED BY:
JOHN C. MELLEMA SR., INC.
LAND SURVEYORS
5409 EAST DR. BALTO., MD. 21227
PHONE: 410-247-7488 FAX: 410-247-2507



D.R.5.5 REGULATIONS
MINIMUM LOT AREA 6,000 SQ. FT.
MINIMUM LOT WIDTH 55'
MINIMUM FRONT YARD SETBACK 25'/AVERAGE
MINIMUM SIDE YARD SETBACK 10'
MINIMUM REAR YARD SETBACK 30'



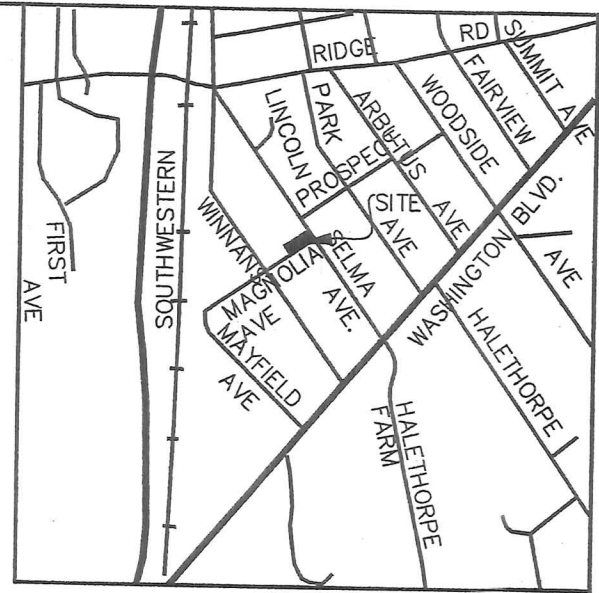
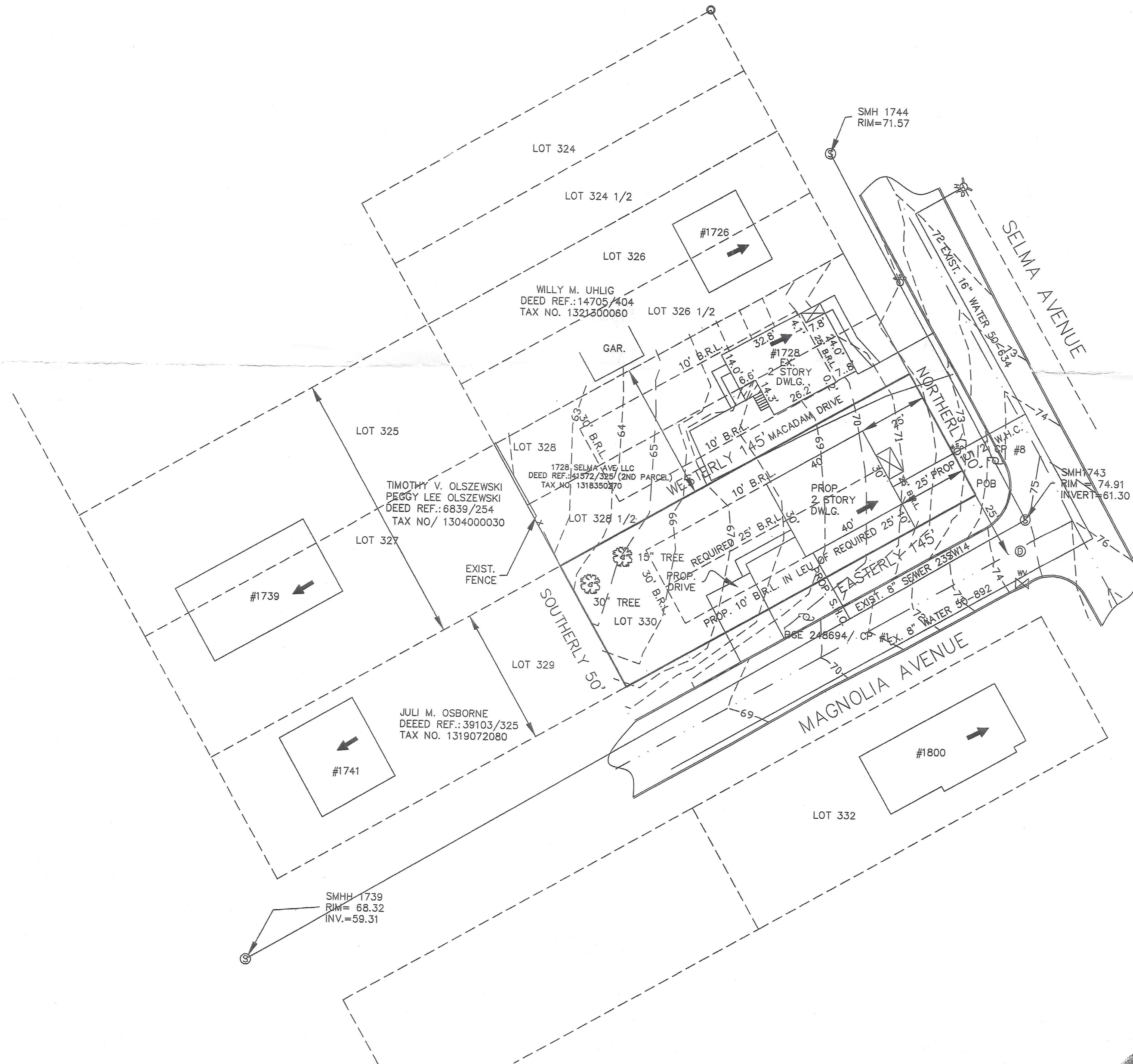
PROTESTANT'S
EXHIBIT NO. 2





PROTESTANT'S
EXHIBIT NO. 4

PLAT TO ACCOMPANY VARIANCE



VICINITY MAP
SCALE: 1"=1000'

LOCATION INFORMATION

COUNCILMANIC DISTRICT: 1
ELECTION DISTRICT: 13
ZONING: D.R. 5.5
1"=200' SCALE MAP: 108C2

LOT SIZE: 7,250 SQ. FT.

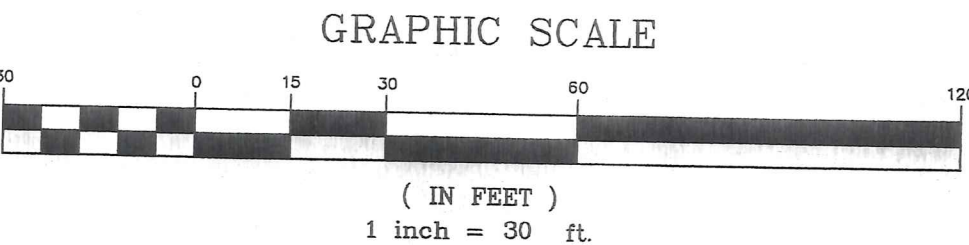
	YES	NO
PUBLIC SEWER	☒	☐
PUBLIC WATER	☒	☐
CHESAPEAKE BAY CRITICAL AREA	☐	☒

SUBDIVISION NAME: PLAT OF HALETHORPE
P.B. J.W.S. NO.1 FOLIO 60

PRIOR ZONING HEARING: N/A
DEED REFERENCE: 41572/325 FIRST PARCEL

OWNER: 1728 SELMA AVE LLC
7158 OHIO AVENUE
HANOVER MD 21076
PHONE: 410-908-1952
TAX NO. 1318350271

DATE: AUGUST, 2019
SCALE: 1"=30'



D.R.5.5 REGULATIONS
MINIMUM LOT AREA 6,000 SQ. FT.
MINIMUM LOT WIDTH 55'
MINIMUM FRONT YARD SETBACK 25'/AVERAGE
MINIMUM SIDE YARD SETBACK 10'
MINIMUM REAR YARD SETBACK 30'



1730 SELMA AVENUE
LOT 330
HALETHORPE
BALTIMORE COUNTY, MARYLAND
TAX MAP 108 GRID 12 PARCEL 594
SCALE: 1"=30' DATE: AUGUST, 2019

PREPARED BY:
JOHN C. MELLEMA SR., INC.
LAND SURVEYORS
5409 EAST DR. BALTO., MD. 21227
PHONE: 410-247-7488 FAX: 410-247-2507

CASE # 2019-0416-A