

**FINDINGS AND RECOMMENDATION
OFFICE OF PLANNING AND ZONING
ANNE ARUNDEL COUNTY, MARYLAND**

APPLICANTS: C & JJ Construction LLC

ASSESSMENT DISTRICT: 5

CASE NUMBER: 2023-0196-V

COUNCIL DISTRICT: 1

HEARING DATE: January 30, 2024

PREPARED BY: Sumner Handy
Planner

REQUEST

The applicant seeks variances to allow a new dwelling with less setbacks than required on property located at 234 Elizabeth Road in Baltimore.

LOCATION AND DESCRIPTION OF SITE

The subject property is located on the north side of Elizabeth Avenue, about 830 feet west of Pumphrey Park. The lot has an area of 3,900 square feet. The site is shown as Lot 496 of Parcel 254, Grid 23 on Tax Map 1. The subject site is zoned R5 - Residential District and has been since comprehensive zoning for the First Council District effective July 10, 2011.

The property is developed with a dilapidated one-story single-family detached dwelling and is served by public water and sewer facilities.

APPLICANT'S PROPOSAL

The applicant proposes to raze the existing one-story dwelling, and to construct a two-story dwelling measuring 24 feet wide by 32 feet deep, and not to exceed 30 feet in height. The footprint of the replacement dwelling will be three feet from each side lot line (the lot is approximately 30 feet wide), and just under 21 feet from the front lot line, necessitating variances.

REQUESTED VARIANCES

Section 18-4-701 of the Anne Arundel County Zoning Code requires that a principal structure in an R5 District be setback a minimum of 25 feet from a front lot line and seven feet from a side lot line. The new dwelling is proposed as close as 20.85 feet from the front lot line and three feet from each of the side lot lines, necessitating variances of five feet to the front lot line setback requirement and four feet from each side lot line.

FINDINGS

The subject property is rectangular and is severely undersized with regard to lot area and width requirements for new lots created in the R5 district (3,900 square feet actual vs. 7,000 required, and half the required width, and 30 feet vs. the required 60 feet). The applicant claims that the existing dwelling has been vacant for 30 years or more; a review of County aerial imagery reveals that there has

been a structure in the approximate location of the existing dwelling since at least 2005, and State tax records are silent on the abandoned dwelling's construction date. Regardless of its age, the existing dwelling is decidedly dilapidated today. The applicant states that the existing dwelling has been condemned. The applicant also notes that the neighborhood is over 100 years old (the plat, attached as a county exhibit, was drawn in 1909), and that both the existing house (to be demolished) and many other newer houses in the neighborhood were built without adherence to the setback requirements.

The applicant notes that they purchased house plans online that were the closest he could find to the dimensions of the existing dwelling, noting that the proposed dwelling is very similar in size and footprint to the existing house.

The **Health Department** noted that the site is served by public water and sewer and had no objection to the request.

The **Department of Inspections and Permits, Engineering Division**, reviewed the request and determined that that group did not have enough information to recommend approval given several aspects missing from the site plan, including the limits of disturbance and stormwater management practices or devices (if required).

For the granting of a zoning variance, a determination must be made that, because of unique physical conditions, there is no reasonable possibility of developing the lot in strict conformance with the Code, or that, because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship in the development of the lot. The lot is substantially narrower than the standard for new lots created in the R5 district, at just 30 feet in width, which makes fitting a single-family detached dwelling absent side setback variances uniquely challenging. The width of this lot comprises a unique physical condition - most developed properties in this neighborhood appear to enjoy at least two of these 30-foot wide lots - but not so unique here that it warrants variance relief to the degree requested here: the dwelling at 230 Elizabeth Avenue, measuring but 20 feet wide, establishes the minimum house width for dwellings in this neighborhood.

Decreasing the width of the proposed dwelling at the subject property from 24 feet to 20 feet, and centrally-locating the dwelling on the lot will result in an increase in the distance from the side lot lines to the dwelling (from just three feet to five feet), and in a reduction of the side setback variances requested (from relief of four feet on each side to relief of just two feet). This Office commonly quotes a minimum of three feet between a structure and a lot line to ensure a person is able to remain on the subject property while conducting construction and maintenance activities. However, three feet may be insufficient while constructing a dwelling, and especially so at this location given the steep slopes that run between the subject property and its immediate neighbors.

The lot's depth, on the other hand, is neither unique nor deficient, and no justification for the front setback variance request has been provided. Finding that this request is unnecessary to develop the lot, this Office will recommend denial of that variance request.

It should be noted that the applicants retain the right to replace this dwelling in-kind (assuming it has been in existence for 20 years or more).¹ While replacing the dwelling in-kind would preclude the right

¹ The definition of in-kind replacement is found in Article 17, the Subdivision and Development Article. It reads, "In-kind replacement' means the removal of a permanent structure and the construction of another permanent structure in the same

to a second story, it would allow (require) the existing dwelling to remain precisely where it is relative to the front and side lot lines. Replacement in-kind is permitted without variance relief from setback requirements.

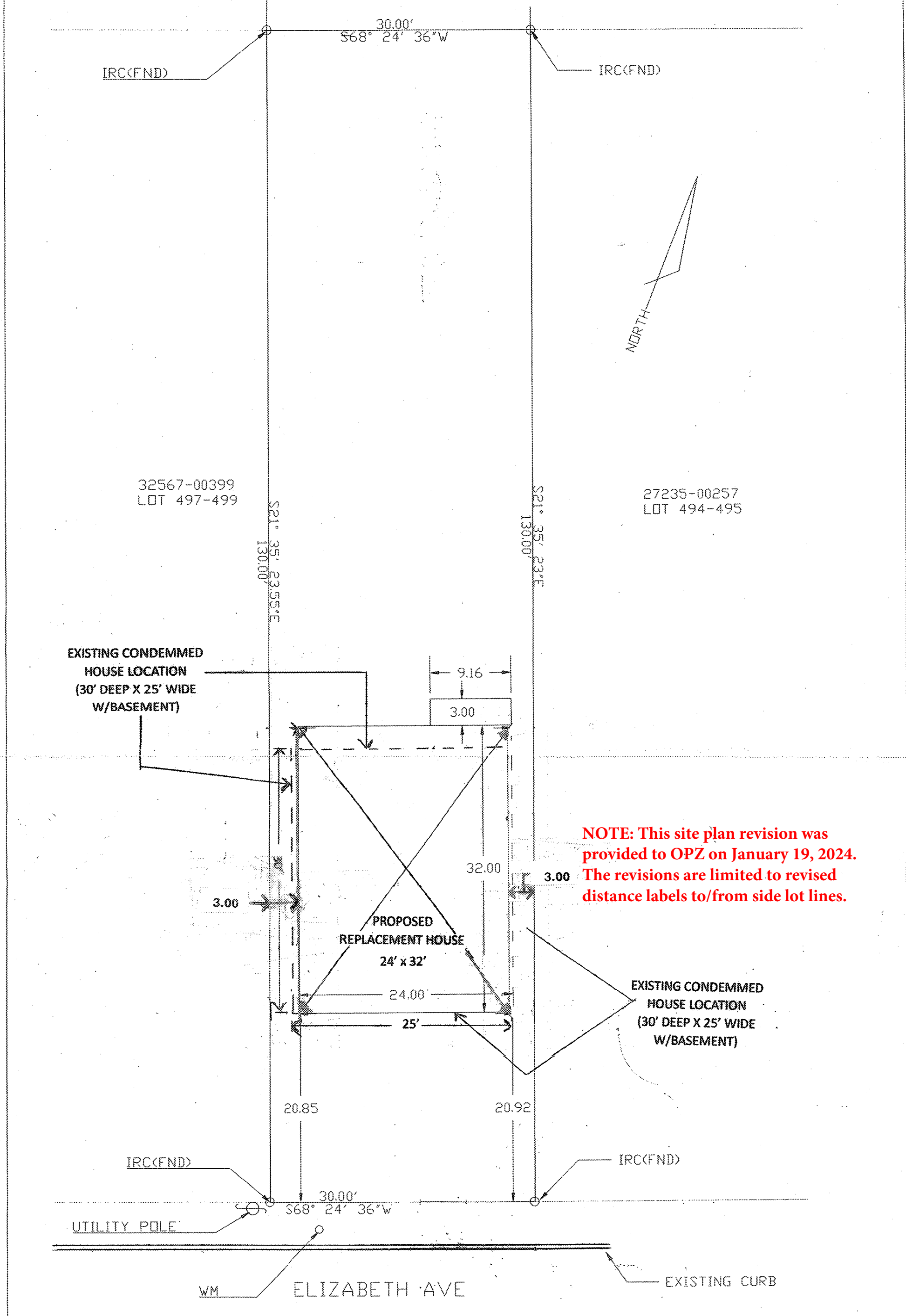
Approval of the setback variances may not alter the essential character of the neighborhood as there are dwellings nearby that are in violation of side and front setback requirements. The variance requests are similarly unlikely to impair the appropriate use or development of adjacent property, although three feet is a narrow strip of land from which to conduct necessary construction and maintenance activities. No evidence has been presented that the proposal will be detrimental to the public welfare. But as this Office finds that both the side and front setback variance requests fail to comprise the minimum necessary to afford relief and allow redevelopment of this property, this Office will recommend denial of these requests.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 of the Anne Arundel County Code under which a variance may be granted, this Office recommends *denial* of variances to Section 18-4-701 of four feet from each side lot line setback requirement and of five feet from the front lot line setback requirement.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits, and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.

location that is smaller than or identical to the original structure in use, footprint, area, height, width and length.”



JOB NAME: C&JJ CONSTRUCTION LLC— C/O JOSEPH PAYNE LOCATION: 234 ELIZABETH AVE BALTIMORE MD, 21225 PATAPSCO PARK LOT 496	DRAWN BY: GAG		CHECKED BY: JM		
	SCALE: 1"=10'		DIST 5 / SUB 624		
	DATE: 10-12-23		ACC NO. 07944790		
DESCRIPTION: SITE PLAN PROPOSED	MAP	PAR	GRID	DEED REF	PLAT REF
LOT SIZE 30' X 130' AREA=3,900 SQ.FT. PROPOSED STRUCTURE AREA=795.5' SQ.FT.	0001	0023	0254	0012-0008	0012-0008

NOTICE

AN APPLICATION HAS BEEN FILED FOR VARIANCE TO
ALLOW A BUILDING WITH LESS SETBACKS
THAN REQUIRED.

LOCATION: 234 ELIZABETH AVENUE, BROOKLYN, TN 37620
CASE NO: 2023-0196-V
AGENDA: VARIANCE
PENDING A PUBLIC ZOOM MEETING FOR INFO CONTACT THE
ZONING DIVISION AT 410-222-7437 OR VIEW WEBSITE
WWW.AACOUNTY.ORG/ADMINHEAR/INDEX.CFM





ANNE
ARUNDEL
COUNTY

MARYLAND
DEPARTMENT OF HEALTH

J. Howard Beard Health Services Building
3 Harry S. Truman Parkway
Annapolis, Maryland 21401
Phone: 410-222-7095 Fax: 410-222-7294
Maryland Relay (TTY): 711
www.aahealth.org

Tonii Gedin, RN, DNP
Health Officer

MEMORANDUM

TO: Sumner Handy, Zoning Applications
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager
Bureau of Environmental Health

A handwritten signature in blue ink, appearing to be "BC", written over the printed name of Brian Chew.

DATE: November 9, 2023

RE: C&J Construction, LLC
234 Elizabeth Ave.
Baltimore, MD 21225

CASE
NUMBER: 2023-0196-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has received the above referenced variance request to allow a dwelling with less setbacks than required. The Health Department offers the following comments:

The Health Department has reviewed the above referenced request. The property is served by public water and sewer facilities. The Health Department has no objection to the above referenced request.

If you have further questions or comments, please contact Dawn Howard at 410-222-4290.

cc: Sterling Seay



Mark Wedemeyer, Director

Memorandum

TO: Planner, OPZ Development Division

FROM: Hala Flores, P.E., Engineer Manager, Department of Inspections and Permits

SUBJECT: 234 Elizabeth Avenue
Project Number B02421484
Variance 2023-0196-V

DATE: November 29, 2023

Engineering and Utility Review

The above-referenced modification request(s) has/have been reviewed for Engineering and Utility issues, and the following comments apply:

Project Information: The site address is 234 Elizabeth Avenue. The applicant is requesting a setback variance to rebuilt a one story house with basement that is currently vacant for 30 years and collapsing/condemned. The existing house does not meet the current front or side yard setback requirements and the neighborhood is 100+ years old. It is claimed that many of the new construction houses in this neighborhood do not meet the setback requirements.

The submitted site plan shows the house to be rebuilt on a slightly larger footprint as the existing house. The LOD was not shown. It is not clear if SWM is required with this reconstruction. The site plan did not show any proposed SWM practices.

Determination –This office does not have sufficient information to recommend approval and defers to OPZ for final determination. It is not clear if a grading plan will be required or not. Should the LOD exceeds 5000 SF, a grading plan will be required.

B-11

PATAPSCO PARK

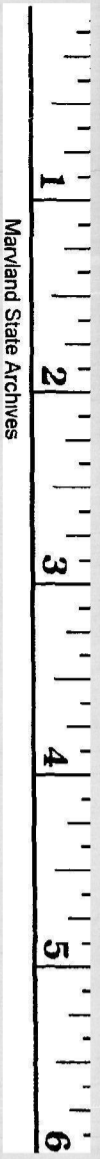
ANNE ARUNDEL COUNTY

5th DISTRICT

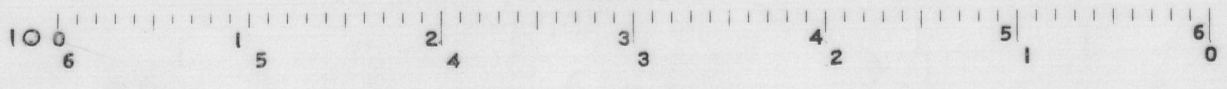
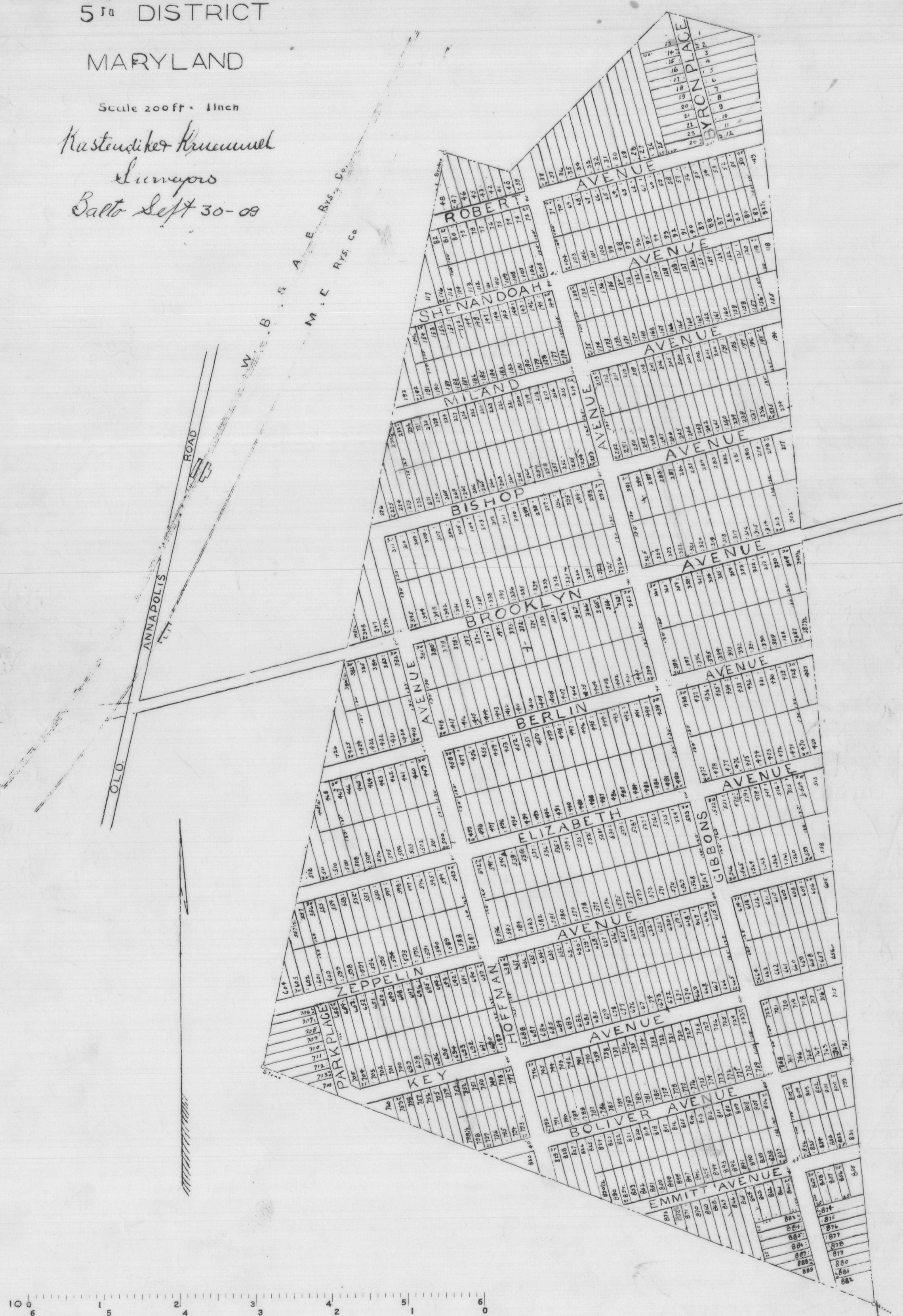
MARYLAND

Scale 200ft = 1inch

*Kustendiker Krummell
Linnepros
Balto Sept 30-09*



ANNE ARUNDEL COUNTY CIRCUIT COURT (Subdivision Plats, AA) Plats B-11; Plat Book 12, p. 8, MSA_S1235_1562. Date available . Printed 01/18/2024.



MSA S1235-1562

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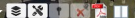
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12/13/2021

1 of 126

Select Date



ROEFMAN AVE

ELIZABETH AVE

ROEFMAN AVE

ELIZABETH AVE

ZEPPELIN AVE