




HOWARD COUNTY HEALTH DEPARTMENT

Diane L. Matuszak, M.D., M.P.H., County Health Officer

July 5, 2001

TO: George Beisser, Chief
Public Service and Zoning Administration

FROM: Mark Rifkin 
Water and Sewerage Program

RE: File Number: BA 01-36V
Title: Mercer Property, 11900 Triadelphia Road

Because the Health Department has concerns about whether adequate sewage capacity could be established for each lot (Lots "B" and "C"), the Health Department recommends that a final decision be postponed until completion and approval of percolation tests.

Since the subdivision would be subject to COMAR 26.04.03, the applicant must demonstrate 10,000 square feet of sewage reserve area for each lot. However, based on percolation test notes from 1989, the potential for success may be limited. Although some satisfactory soils were found at that time, shallow depths to water table were a significant limiting factor. Because there is no evidence that a percolation certification plat was submitted for Lot "B", final review and approval for those percolation tests did not occur.

The adjacent Lot "A" is known to be served by a pumped septic system in the front of the property due to shallow water table conditions. The petitioners' septic system is understood to be on the front left side of the existing residence. Therefore, the potential for obtaining 10,000 square feet of sewage reserve area for Lot "B" which also allows for a suitable well site may be limited.

Since some portions of the property were not tested, additional percolation tests would be required to best explore all possible options under subdivision rules. However, given the history of shallow depths to water table, the Health Department would require any percolation testing to be conducted during the next wet season (Spring, 2002). Therefore, the Health Department recommends postponement of the decision.

MR

Department of Planning and Zoning
Howard County, Maryland
Recommendations/Comments

Date: 6/22/01

Planning Board n/a Board of Appeals 7/23/01 Zoning Board _____

Petition No. BA 01-36V Map No. 16 Block 19 Parcel 193 Lot _____

Return Comments by 7/6/01 to Public Service and Zoning Administration

Location of Property: North side of Triadelphia Road opposite Emerald Court

Applicant: Kirk and Helen Mercer

Applicant's Address: 11900 Triadelphia Road, Ellicott City, MD 21043

Owner: (if other than applicant) _____

Owner's Address: _____

Petition: Variance to reduce the minimum lot size from 3 acres to 1.290 acres.

To:

_____ Department of Education
_____ ~~Department of Planning and Zoning~~
_____ Development Engineering Division
_____ Department of Inspections, Licenses and Permits
_____ Department of Recreation and Parks
_____ Department of Fire and Rescue Services
_____ State Highway Administration
_____ Sgt. Karen Shinham, Howard County Police Dept.
_____ James Irvin, Department of Public Works
_____ MD Dept. of Human Resources, Janice Burris
_____ (Child Day Care)
_____ Office on Aging, Betty Totaro (senior assisted living)
_____ Police Dept., Animal Control, Brenda Purvis, (kennels)

COMMENTS: _____

**RESIDENTIAL DISTRICT VARIANCE PETITION
TO THE HOWARD COUNTY BOARD OF APPEALS**

01 JUN 18 PM 3:47

For DPZ office use only:

CASE NO. BA 01-36

DATE FILED _____

DATE ACCEPTED FOR
SCHEDULING _____

1. **PETITIONER'S NAME** Kirk and Helen Mercer
TRADING AS (IF APPLICABLE) N/A
ADDRESS 11900 Triadelphia Road, Ellicott City, MD 21043
PHONE NO. (W) 410-988-9676 **(H)** 410-764-5253

2. **COUNSEL FOR PETITIONER** David A. Carney, Esq., Reese and Carney, LLP
COUNSEL'S ADDRESS 10715 Charter Drive, Columbia, Maryland 21044
COUNSEL'S PHONE NO. 410-740-4600

3. **PROPERTY IDENTIFICATION:**

ADDRESS OF SUBJECT PROPERTY North side of Triadelphia Road at the intersection of Triadelphia Road and Emerald Court, also known as 11900 Triadelphia Road

TOTAL ACREAGE OF PROPERTY 2.495 acres

PROPERTY LOCATION:

ELECTION DISTRICT: 3 **ZONING DISTRICT:** RC

TAX MAP # 16 **BLOCK #** 19 **PARCEL/LOT #** 193

SUBDIVISION NAME (if applicable): N/A

4. **PETITIONER'S INTEREST IN SUBJECT PROPERTY:**

☒ OWNER (including joint ownership) ☐ OTHER (describe and give

If the Petitioner is not the owner of the subject property, documentation from the owner authorizing the petition must accompany this petition.

NOTE: Completed petition forms must be submitted before the first day of the month in order to be heard on the last Tuesday of the Month. Incomplete petitions may result in postponement.

The Board of Appeals may, at its discretion, refer a variance petition in a residential district to the Planning Board for review and a recommendation.

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PLEASE READ CAREFULLY
DATA TO ACCOMPANY PETITION:

5. VARIANCE PLAN.

No application for a variance shall be considered complete unless the plan indicates the required setback or other requirement, and the requested variance from the subject setback or other requirement. The submitted plans shall be folded to approximately 8 ½ x 14 inches. The plan must be drawn to scale and must include the items listed below:

- ☐ (a) Courses and distances of outline boundary lines and the size of the property.
- ☐ (b) North arrow.
- ☐ (c) Zoning of subject property and adjoining property.
- ☐ (d) Scale of plan.
- ☐ (e) Existing and proposed uses, structures, natural features and landscaping.
- ☐ (f) Location and surface material of existing and proposed parking spaces, driveways, and points of access; number of existing and proposed parking spaces.
- ☐ (g) Same as (e) and (f) above, of any adjoining property as necessary for proper examination of the petition.
- ☐ (h) Location of well and private sewerage easement area, if property is to be served by private water and sewer.
- ☐ (i) Election District in which the subject property is located.
- ☐ (j) Tax Map and parcel number on which the subject property is located.
- ☐ (k) Name of local community in which the subject property is located or name of nearby community.
- ☐ (l) Name and mailing address of the petitioner.
- ☐ (m) Name and mailing address of attorney, if any.
- ☐ (n) Name and mailing address of property owner.
- ☐ (o) Floor area and height of structures, setback distances from property lines, and other numerical values necessary for the examination of the petition.
- ☐ (p) Location of subject property in relation, by approximate dimension, to the center line of nearest intersection of two public roads.
- ☐ (q) Ownership of affected roads.
- ☐ (r) A detailed description of all exterior building materials for all proposed structures.
- ☐ (s) Any other information as may be necessary for full and proper consideration of the petition.

6. OTHER DATA TO ACCOMPANY PETITION:

The Petitioner must also submit with the petition an area location map (tax map) of the subject property, indicating the street address of the site, the zoning district of the site and the zoning district of all adjacent properties.

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7. VARIANCE REQUEST.

The undersigned hereby petition the Board of Appeals for a variance from the requirement(s) of section 130.B.2 of the Zoning Regulations to: reduce the minimum lot size from 3 acres to 1.290 acres.

A) Describe why the Zoning Regulations in question would result in practical difficulties or unnecessary hardships in complying strictly with the bulk requirements:

(x) narrowness, () shallowness, () shape, () topography (X) other;

explain: See Supplement

B) If exceptional narrowness, shallowness or shape of the property is claimed, give the date of the recording of the plat of present subdivision, if any: None; or if property is not subdivided, give the date on which a deed conveying the identically bounded tract was first recorded: The property was shown in a survey completed in 1966. and recorded in 1979.

C) The intended use of the property, in the event the petition is granted: Residential

D) Any other factors which the Petitioner desires to have considered: See Supplement

E) Explain why the requested variance is the minimum necessary to afford relief: See Supplement

F) Is the property connected to: public water?: Y__ N X; public sewer?: Y__ N X

G) If the requested variance is granted, would it impact the water and/or septic/sewer on the site? Y__ N X

H) If the requested variance is granted, would it increase the intensity of uses on the site? Y__ N X; if yes, explain: _____

I) If the requested variance is granted, would it increase traffic to or from the site? Y X N__;
if yes, explain: See Supplement

J) Describe in detail (i.e. width, type of paving, etc.) all means of vehicular access onto the site:
See Supplement

K) Describe the topography of the site: See Supplement

Go to page 4.

L) Will the existing or proposed structure be visible from adjacent properties?

Y X N___; if yes, describe any proposed buffering or landscaping:_____

M) Describe any existing buffering or landscaping: See Supplement_____

8. PRIOR PETITIONS. Has any petition for the same, or substantially the same, variance as contained herein for the same property as the subject of this petition been disapproved by the Board of Appeals within twenty-four (24) months of the date of this petition?

() YES (x) NO If yes, and six (6) months have elapsed since the last hearing, an affidavit setting forth new and different grounds on which re-submittal is based must be attached.

9. ADDITIONAL MATERIAL, FEES, POSTING, AND ADVERTISING:

A) If desired, supplemental pages may be attached to the petition. The following number of petitions, plans and supplemental pages must be submitted:

23 copies if the subject property adjoins a State road.

19 copies if the subject property adjoins a County road.

B) The undersigned agrees to furnish such additional plats, plans, reports or other material as may be required by the Department of Planning and Zoning and/or the Board of Appeals in connection with the filing of this petition.

The undersigned agrees to pay all costs in accordance with the current schedule of fees.


The undersigned also agrees to properly post the property at least fifteen (15) days immediately prior to the hearing and to maintain the property posters as required and submit an affidavit of posting at, or before the time of the hearing. The undersigned also agrees to insert legal notices, to be published one (1) time in at least two (2) newspapers of general circulation in Howard County, as prepared and approved by the Department of Planning and Zoning, within at least fifteen (15) days prior to the hearing, and to pay for such advertising costs; and further agrees to submit two (2) approved certificates of the text and publication date(s) of the advertisement at or before the time of the hearing.

Go to page 5.


10. **SIGNATURES.**

The undersigned hereby affirms that all of the statements and information contained in, or filed with, this petition are true and correct.

The undersigned has read the instructions on this form, filing herewith all of the required accompanying information.


KIRK MERCER, Petitioner


HELEN MERCER, Petitioner


David A. Carney
Reese and Carney, LLP

For DPZ offices use only: (Filing fee is \$450.00 plus \$15.00 per poster.)

Hearing fee: \$ _____

Poster fee: \$ _____

TOTAL: \$ _____

Receipt No. _____

(Make checks payable to "Director of Finance")

Go to page 6.

GENERAL REQUIREMENTS:

The Petitioner shall note that all requests for variances must meet the following requirements of Section 130.B.2.a.(1) through (5) of the Howard County Zoning Regulations in order to be approved:

(1) That there are unique physical conditions, including irregularity, narrowness or shallowness of lot or shape, exceptional topography or other existing features peculiar to the particular lot; and that as a result of such unique physical conditions, practical difficulties or unnecessary hardships arise in complying strictly with the bulk provisions of these regulations.

(2) That the variance, if granted, will not alter the essential character of the neighborhood or district in which the lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare.

(3) That such practical difficulties or hardships have not been created by the owner provided, however, that where all other required findings are made, the purchase of a lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.

(4) That within the intent and purpose of these regulations, the variance, if granted, is the minimum variance necessary to afford relief.

(5) That no variance be granted to the minimum criteria established in Section 131 for special exception uses, except where specifically provided therein or in an historic district. Nothing herein shall be construed to prevent the granting of variances in any zoning district other than to the minimum criteria established in Section 131 except as provided therein.

IN RE:	*	BEFORE THE
Kirk Mercer and Helen Mercer	*	HOWARD COUNTY
Petitioners	*	BOARD OF APPEALS
	*	BA01-____-V

SUPPLEMENT TO VARIANCE PETITION

The Petitioners, Kirk Mercer and Helen Mercer, ("Petitioners"), are the owners of parcel 193 located at 11900 Triadelphia Road in Ellicott City, Maryland, which is on the north side of Triadelphia Road near its intersection with Emerald Court. The Petitioners purchased the Property from Ms. Mercer's father and mother, Donald Dunn and Helene Dunn in 1984, who reside across Triadelphia Road from the Property. The Dunns were accommodating parties. When the Petitioners were discussing the purchase with the representative of the Wolfe Estate, they were furnished a survey of the Property as recorded in the Land Records which was attached to the conveyance of the adjacent Lot A. The subject Property consisting of a 1.36 acre parcel and an additional 1.211 acre parcel were shown on the Survey, all of which properties were owned as of 1979 by Emily H. Wolfe. The Property was advertised as a residence with an extra lot. A residence is located on Lot C, consisting of 1.211 acres as indicated on the attached survey, and the extra lot, Lot B, is 1.290 acres. Petitioners believed Lot B, was a separate lot which is why they have not utilized it as part of their residence, other than to fence it and maintain the grounds (See attached Exhibit A). In 1992, Petitioners were granted a variance from the required 75' front setback to 9' for a proposed addition to the existing residence, as indicated in Board of

Appeals Case 92-15V.

Presently, the Property is zoned RC-DEO, which requires a minimum lot size of three acres for this Property. This, however, was not always the case. Under the 1961, 1966 and 1971 Zoning Regulations, the minimum lot size for this Property was 40,000 square feet.

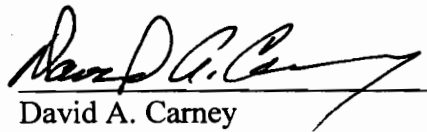
Compliance with the current bulk regulations in Section 105.E.1 of the Howard County Zoning Regulations creates a practical difficulty and unnecessary hardship for the Petitioner who relied on the Property description in the previous deed that represented the Property as three parcels, all of which then met the minimum lot size requirements at the time the survey was prepared.

When the Petitioners acquired the Property through Mr. and Mrs. Dunn, it was advertised as two lots which was confirmed by the deed description for Lot A attached as Exhibit B. The Petitioners, when they acquired the Property, reasonably relied on the deed description for the Deed to Mr. and Mrs. Dunn which referred to two lots, and the information given by the personal representative of Emily H. Wolfe and the real estate agent that the Property contained two parcels. It was not until the Petitioner decided to use Lot B for a residence that they discovered the Property had not been subdivided, and was then unable to comply with the present Bulk Regulations for minimum lot size.

The requested Variance, if granted, will not alter the essential character of the neighborhood or the district in which it is located. The adjacent property, Lot B, is 1.290 acres. On both the north and south sides of Triadelphia Road running from Route 144 to the

subject Property, the surrounding lot sizes are similar and in several cases even smaller than the subject Property. Residential development of this lot will not substantially impair the appropriate use or development of adjacent property and would be consistent with the surrounding uses. Furthermore, the adjacent property owners, one of which is the Petitioner, also have residential homes on lots less than three acres. If granted, the Variance will not be detrimental to the public welfare as it is consistent with the surrounding residential uses along Triadelphia Road.

Consistent with this belief, the Petitioners simply chose to wait to use the extra lot for residential purposes. Upon finding out that in fact it was not two separate lots, Petitioners hereby file this Petition requesting a Variance to reduce the minimum 3 acres lots size to 1.290 acres, which is the minimum necessary to afford them relief to develop and use their Property for an additional residential single family detached order



David A. Carney
Reese & Carney, LLP
10715 Charter Drive, Suite 200
Columbia, Maryland 21044
(410) 740-4600

Attorney for Petitioner

ZB or BA CASE # _____

PETITIONER Kirk and Helen Mercer

ADDRESS 11900 Triadelphia Road, Ellicott City, MD 21043

Affidavit made pursuant to the pertinent provisions of Title 22 of the Howard County Code as amended.

THE UNDERSIGNED DOES HEREBY DECLARE THAT NO OFFICER OR EMPLOYEE OF HOWARD COUNTY, WHETHER ELECTED OR APPOINTED, HAS RECEIVED PRIOR HERETO OR WILL RECEIVE SUBSEQUENT HERETO, ANY MONETARY OR MATERIAL CONSIDERATION, ANY SERVICE OR THING OF VALUE, DIRECTLY OR INDIRECTLY, UPON MORE FAVORABLE TERMS THAN THOSE GRANTED TO THE PUBLIC GENERALLY IN CONNECTION WITH THE SUBMISSION, PROCESSING, ISSUANCE, GRANT OR AWARD OF THE WITHIN APPLICATION OR PETITION IN ZB OR BA CASE # _____ FOR A ZONING CHANGE AS REQUESTED.

I, WE, DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE AFOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY, OUR, KNOWLEDGE, INFORMATION AND BELIEF.

Nichole M. Gahlin
Witness

Kirk Mercer 6/14/10
Kirk Mercer Date

Nichole M. Gahlin
Witness

Helen Mercer 6/14/10
Helen Mercer Date

Witness

Signature Date

Exhibit B

NO TITLE EXAMINATION

This Deed, MADE THIS 22 day of JUNE

in the year one thousand nine hundred and seventy-nine, by and between

EMILIE H. WOLFE, Widow,

of the first part, and

ROBERT A. MILLER and BEVERLY C. MILLER, his wife,

of the second part.

WITNESSETH, That in consideration of the sum of ONE HUNDRED DOLLARS (\$100.00), and other good and valuable considerations, the receipt whereof is hereby acknowledged,

the said party of the first part

do es grant and convey to the said parties of the second part, as tenants by the entireties, the survivor of them, their assigns, and the survivor's

personal representatives/assigns and assigns, in fee simple, all that

lot of ground situate in the Third Election District of Howard County, State of Maryland, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED AS LOT A, on Triadelphia Road, as shown on Map C-2735 Tax Map 16, Howard County, and as also shown on a Plat of Survey dated August 24, 1966, having dimensions from a point North 17 degrees 52 minutes West for 419.10 feet continuing North 25 degrees, 33 minutes West for 171.60 feet, thence South 19 degrees 18 minutes East for 539.09 feet to the starting point, South 66 degrees 08 minutes West for 132.00. Containing 1.368 acres more or less.

BEING part of the property described in a Deed dated January 16, 1922 and recorded among the Land Records of Howard County in Liber 114, folio 216, from Eleanor T. Harrison to Walter J. Wolfe and Emilie H. Wolfe, his wife. The said Walter J. Wolfe having departed this life on Nov 9, 1966 thereby vesting title in the said Emilie H. Wolfe as survivor.

DEED FEE	21.00
RCRD TAX	2.20
CNTY TAX	1.00
STAT TAX	.50
DEED	165.30 N
#11260 C940 R02	112:05
	106/2189

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises to the said parties of the second part, as tenants by the entireties, the survivor of them, their assigns, and the survivor's

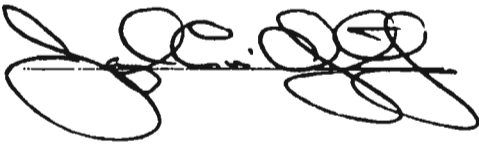
personal representative, successors

and assigns, in fee simple.

AND the said party of the first part hereby covenants that she has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that she will warrant specially the property hereby granted; and that she will execute such further assurances of the same as may be requisite.

WITNESS the hand and seal of said grantor

Test:



Emilie H. Wolfe (SEAL)
EMILIE H. WOLFE

____ (SEAL)

____ (SEAL)

STATE OF MARYLAND, COUNTY OF ANNE ARUNDEL to wit:

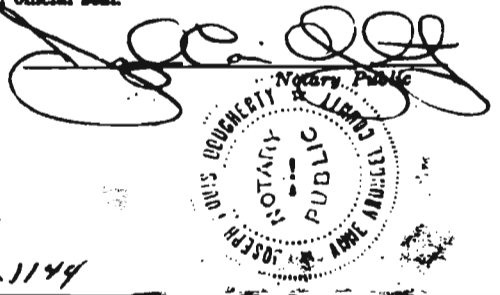
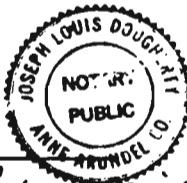
I HEREBY CERTIFY, That on this 22 day of June, in the year one thousand nine hundred and seventy-nine, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared EMILIE H. WOLFE,

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.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires:

MY COMMISSION EXPIRES JULY 1, 1982



Robert Miller
33 Hange Rd
Severn Md 21144

PLAT OF SURVEY
FOR
MRS. WALTER J. WOLFE
THIRD ELECTION DISTRICT OF HOWARD COUNTY
ELLICOTT CITY, MARYLAND
SCALE: 1 IN. = 50 FT. AUGUST 24, 1906

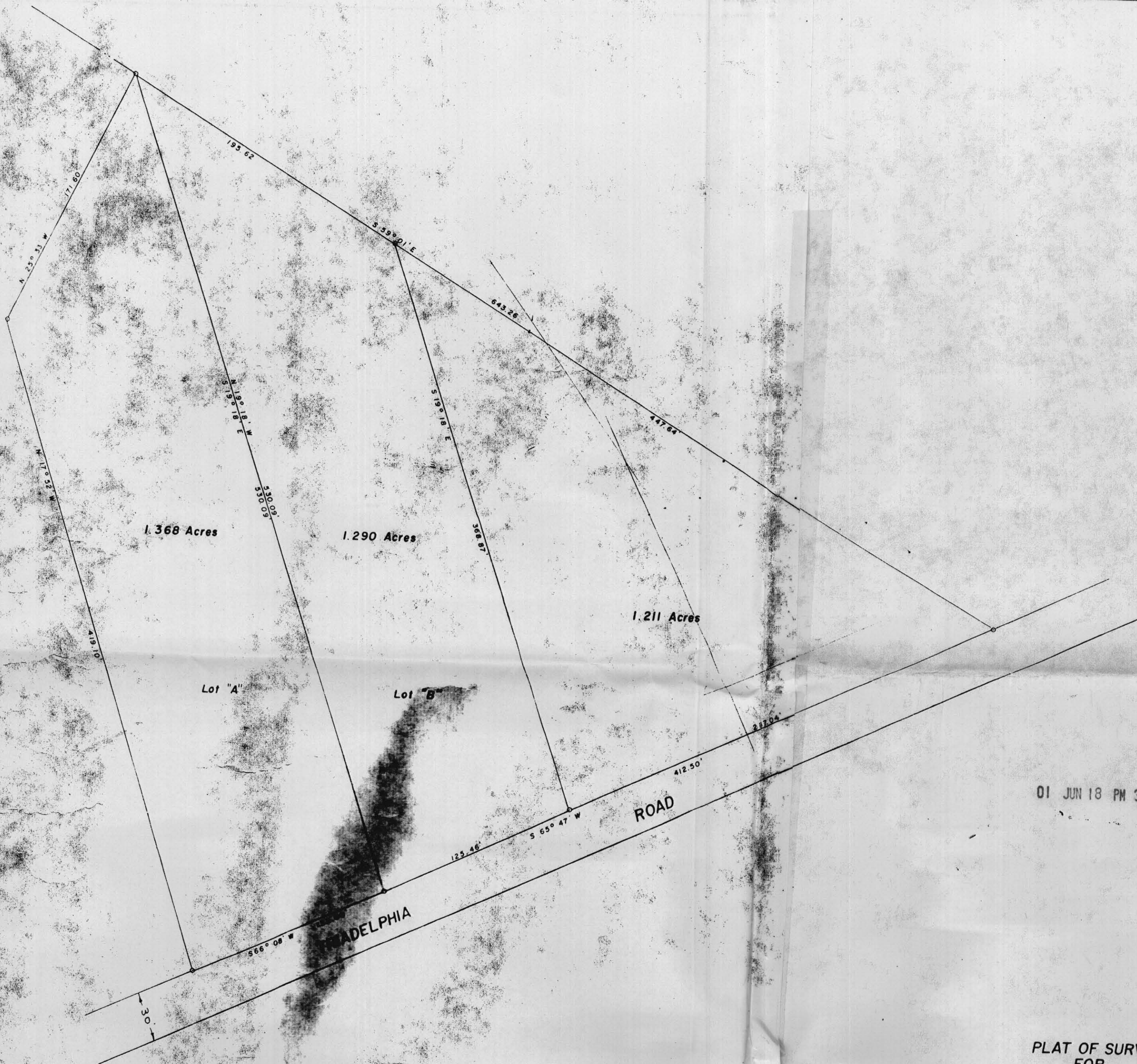
Charles M. Shriver
Charles M. Shriver, Jr., Eng. & Land Surveyor No. 2237

1600017 FOLIO 1010



Exhibit A





01 JUN 18 PM 3:47

PLAT OF SURVEY
FOR
MRS. WALTER J. WOLFE
THIRD ELECTION DISTRICT OF HOWARD COUNTY
ELLICOTT CITY, MARYLAND
SCALE: 1 IN. = 50 FT. AUGUST 24, 1966

Claude M. Skinner Jr.
Claude M. Skinner Jr. Reg. Eng. & Land Surveyor No. 2237