

C. HAMMOND BROWN
VS
COUNTY BOARD OF APPEALS
THE CRANSTON REALTY COMPANY
VS
COUNTY BOARD OF APPEALS

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
(Two Appeals - One Record
Misc. Files #3286 - 3288)

MEMORANDUM OPINION

The Cranston Realty Company had filed a Petition whereby it sought (a) a variance with respect to the requirements of §22.3 of the Zoning Regulations of Baltimore County, and (b) sought as well a permit for the use of land in a residential zone for parking purposes under the provision of §49.4 of the Zoning Regulations.

The County Board of Appeals granted the variance and denied the application for the parking permit, thereby producing Cross-Appeals by the Protestants with respect to the grant of the variance, and by the Petitioner with respect to the denial of the parking permit.

AS TO THE VARIANCE

The part of the Petitioner's property as to which a variance is sought is zoned B-L. Under such zoning, §22.3--Near Yard--b. reads as follows:

"For commercial buildings, none required except that where the rear lot line abuts on a residential zone there shall be a rear yard not less than 25 feet deep."

The property of the Petitioner that is zoned B-L as aforesaid abuts R-6 land in its ownership as to which there is a subsisting permit for parking. The Petitioner's ownership of such R-6 land with a right to use for parking purposes extend for varying depths, but at no point less than 50 feet from R-6 lands in other ownership. Otherwise stated, if the rear line of the building was con-

- 2 -

There presently exists, at the rear of the present building, an area enclosed by a large brick fence, (see protestants' exhibit "A"), which extends far beyond the existing area zoned B-L, and this entire fence will be removed if the proposed new two story structure is built.

It is the feeling of the Board that compliance with the existing setback regulations would result in an unreasonable hardship to the petitioner. This B-L property abuts, at the rear, on R-6 land which is used for parking in connection with a commercial enterprise and, therefore, the usual danger of encroachment upon neighboring residential property by the granting of a variance as to setback is not really present in this case. The petitioner has, in fact, proposed that his two story building be offset to the north of the existing building in order to comply with side yard setback requirements on his south property line, adjacent to which residences do exist.

The testimony clearly indicated that the petitioner now has 113 parking spaces and that even with his proposed new two story structure, only 105 spaces would be required. In seeking his special permit for additional off-street parking the petitioner proposes to add thirty-three (33) parking spaces extending approximately 85 feet eastward from the existing east proper line of the parking lot which would make a total of 146 parking spaces. It is the feeling of the Board that sufficient need has not been shown for the additional parking spaces, and the addition of them would, therefore, constitute an unreasonable and unnecessary intrusion into the residential use of the property surrounding the building and parking lot. Therefore, the petition for a special hearing to permit the additional off-street parking should be denied.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 18th day of May, 1965 by the County Board of Appeals, ORDERED that the variance petitioned for, be and the same is hereby granted, and that the permit for off-street parking petitioned for, be and the same is hereby denied.

Any appeal from this decision must be in accordance with Chapter 1100, subtitle 8 of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William S. Baldwin, Chairman

W. Giles Parker

structed at the extreme easterly line of the B-L zoning there would be an open space not less than 50' in breadth separating the rear wall of that building from the nearest R-6 property in the ownership of another person. On these facts the County Board of Appeals granted the requested variance, and in its finding of fact said:

"It is the feeling of the Board that compliance with the existing setback regulations would result in an unreasonable hardship to the petitioner. This B-L property abuts, at the rear, on R-6 land which is used for parking in connection with a commercial enterprise and, therefore, the usual danger of encroachment upon neighboring residential property by the granting of a variance as to setback is not really present in this case."

There is substantial evidence to support this finding of fact, that is all that is required. *Lovell Federal Savings & Loan Association v. Buchanan*, 227 Md. 243; *Baltimore v. Borinsky*, 239 Md. 611, 625.

AS TO THE REQUESTED PERMIT FOR PARKING

In denying the request for additional parking spaces within other R-6 land in the ownership of the Petitioner, the County Board of Appeals said:

"The testimony clearly indicated that the petitioner now has 113 parking spaces and that even with his proposed new two story structure, only 105 spaces would be required. In seeking his special permit for additional off-street parking the petitioner proposes to add thirty-three (33) parking spaces extending approximately 85 feet eastward from the existing east property line of the parking lot which would make a total of 146 parking spaces. It is the feeling of the Board that sufficient need has not been shown for the additional parking spaces, and the addition of them would, therefore, constitute an unreasonable and unnecessary intrusion into the residential use of the property surrounding the building and parking lot."

Here again, substantial evidence in support of the Board's conclusion is found in the record, and it is not permissible in such a situation for the Court to substitute its judgment for the judgment of the Board. *Baltimore v. Sapery*, 230 Md. 291, 296.

CLAYTON A. REID
ATTORNEY AT LAW
AND PROBATE JUDGE
COUNTY OFFICE BUILDING
BALTIMORE, MARYLAND 21201
Telephone 301-767-1000
May 27, 1964



Deputy Commissioner of Baltimore County,
County Office Building,
Towson 1, Maryland.

Re: Petition for Variance to Sec. 22.3 of Zoning Regulations of Baltimore County, B-L, York Road, 277-281 S. Stevenson Lane, 9th District, Cranston Realty Co., Petitioner.
Re. 64-58-4

Dear Sir:

Please enter an appeal on behalf of C. Hammond Brown and Robert M. Schmidt, from the decision rendered by the Zoning Commissioner of Baltimore County dated April 29, 1964, in the above captioned Petition.

Check in the amount of \$10.00 is attached hereto.

Very truly yours,

Clayton A. Reid
Attorney for Appellants.

cc/v

enclosure:

For the above stated reasons the Order of the County Board of Appeals upon the grant of the variance (Circuit Court Case #3286), and upon the rejection of the permit for parking (Circuit Court Case #3288) is affirmed.

W. ALBERT MENCHINE, Judge

RE: PETITION FOR VARIANCE
from Section 22.3 of the
Zoning Regulations, and for a
SPECIAL HEARING to permit
Off-Street Parking in a
residential zone,
E/S York Road 277-281 South
of Stevenson Lane,
9th District
Cranston Realty Company,
Petitioner

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 64-58-5PH

OPINION

The petitioner in this case seeks a variance from Section 22.3 of the Zoning Regulations of Baltimore County to allow a building up to 9 feet from the rear line of his B-L property, and a special hearing to permit off-street parking in a residential zone.

The petitioner is the owner of a tract of land having a frontage along the east side of York Road of approximately 177 feet and an irregular depth easterly of approximately 650 feet. The property begins just south of Stevenson Lane, and between the north property line and Stevenson Lane there presently exists a gasoline service station. The front portion of the subject property is zoned B-L to a depth of 150 feet from the east side of York Road. The remaining portion of the property (see petitioners' exhibit No. 1) is zoned R-6 and contains marked parking spaces for 113 cars. The portion that is zoned B-L is presently improved by a three story office building 145 feet in width and 65 feet in depth so that, together with the 30 foot setback from the east side of York Road, the rear line of the present structure is 95 feet from the York Road. The petitioner proposes to build an addition: "a two story building, 140 feet wide and 35 feet deep, directly behind the existing structure (as shown on petitioners' exhibit No. 1) which structure would extend to within two or three feet of the rear line of the B-L zone."

The petitioner produced testimony to show that there have been inquiries by already existing tenants and by others for additional retail space. Mr. Rupert A. Blue, Sales Manager for the Cutler-Hammer Company, testified that his company has been a tenant in the existing office building for three years, under a five year lease, occupying approximately 850 square feet of office space and that, due to the expansion of his office, he has requested an additional 850 square feet of space in the same building, but is unable to obtain it. Mr. Blue testified that his office was in immediate need of more space. The rental agent for the building also testified that he receives an average of three requests per week from outside inquirers seeking new rental space. The petitioner further testified that he felt an economic hardship based on his assessment of commercial property of more than \$1,000 per front foot, the land assessment being \$154,000. He further testified to hardship based on the loss of 7500 to 8000 square feet of Business-Local property to the rear of his existing structure.

PETITION FOR ZONING VARIANCE
FROM AREA AND HEIGHT REGULATIONS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Cranston Realty Company, legal owner, of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 22.3 to permit 0 foot rear yard setback instead of required 20 foot setback. See parcel of land described on attached description marked Petitioner's Exhibit "A".

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty.)
The practical difficulty to utilize existing B-L zoned land of Petitioner for BL purposes because of unavailability of sufficient area to provide required 20 foot setback. Such practical difficulty was not intended by the regulations in instances such as this where Petitioner owned adjoining R-6 property to rear and using same as an adjunct for BL property.

To have a special hearing to permit off-street parking on land zoned B-L in conformity with Section 409.4 of Zoning Regulations on parcel of land described in attached description marked Petitioner's Exhibit "B".

See Attached Description

Property is to be posted and advertised as prescribed by Zoning Regulations. I or we agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

THE CRANSTON REALTY COMPANY
By William S. Baldwin, Legal Owner
Contract purchaser
Address 320 Millers Road
Gordon 4, Maryland
Petitioner's Attorney
Address 202 Campbell Building
Towson 4, Maryland

DEPOSED BY The Zoning Commissioner of Baltimore County, this 29th day of January, 1964.

January, 1964. that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 29th day of January, 1964, at 1:30 o'clock.

RECEIVED FOR
PROCESSING
BY W. S. Baldwin
DATE OF
OFFICE OF
PLANNING & ZONING

(over)

L. ALAN EVANS SURVEYORS AND CIVIL ENGINEERS
4200 ELSRODE AVENUE - BALTIMORE 14, MARYLAND - HAMILTON 6-2144
BRANCH - 8 POPLAR STREET - CAMBRIDGE, MARYLAND - AC 3302

December 12 1963

DESCRIPTION FOR REAR LAND VARIANCE OF THE
PROPOSED 2 STORY BUILDING AT 7215 YORK ROAD
BEGINNING for the same at a point in the second line of the land which by deed recorded among the Land Records of Baltimore County was conveyed by Associated Canners Corporation to the Cranston Realty Company, said point being situate, referring all courses to the true meridian as established by the Baltimore County Metropolitan District, South 12 degrees 02 minutes 40 seconds East 277.20 feet and North 84 degrees 17 minutes 40 seconds East 113.25 feet measured along the east side of York Road, 66 feet wide, and along said second line from the corner formed by the intersection of said east side of York Road with the south side of Stevenson Lane, 40 feet wide, thence leaving said place of beginning and running and binding on a part of said second line North 84 degrees 17 minutes 40 seconds East 36.75 feet, thence running parallel to York Road North 12 degrees 02 minutes 40 seconds East 177.20 feet to the southeast corner of a tract of land leased by Mary E. Rogers to Standard Oil Company of New Jersey, thence binding along a part of the southernmost line of said leased parcel South 84 degrees 17 minutes 40 seconds East 36.75 feet, thence running parallel to York Road South 12 degrees 02 minutes 40 seconds East 177.20 feet to the place of beginning.

PETITIONER'S EXHIBIT "A"



L. Alan Evans

L. ALAN EVANS SURVEYORS AND CIVIL ENGINEERS
4200 ELSRODE AVENUE - BALTIMORE 14, MARYLAND - HAMILTON 6-2144
BRANCH - 8 POPLAR STREET - CAMBRIDGE, MARYLAND - AC 3302

December 12 1963

DESCRIPTION OF THE USE PERMIT FOR PARKING
AT 7215 YORK ROAD
BEGINNING for the same at the end of the second line of the land which by deed recorded among the Land Records of Baltimore County was conveyed by Associated Canners Corporation to the Cranston Realty Company, said point being situate, referring all courses to the true meridian as established by the Baltimore County Metropolitan District, South 12 degrees 02 minutes 40 seconds East 277.20 feet and North 84 degrees 17 minutes 40 seconds East 113.25 feet measured along the east side of York Road, 66 feet wide, and along said second line from the corner formed by the intersection of said east side of York Road with the south side of Stevenson Lane, 40 feet wide, thence running North 84 degrees 17 minutes 40 seconds East 65.73 feet, thence North 05 degrees 42 minutes 20 seconds East 105 feet, thence South 84 degrees 17 minutes 40 seconds East 55.73 feet thence South 05 degrees 42 minutes 40 seconds East 105 feet to the place of beginning.



L. Alan Evans

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND
No. 21535
DATE 12/17/63

TO: Messrs. Proctor, Royston & Haller
Campbell Building
Towson 4, Md.
BILLED BY
COUNTY BOARD OF APPEALS (Zoning)
TOWSON 4, MARYLAND
REPORT TO ACCOUNT NO. 01.712
QUANTITY 1
DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE
COST \$25.00
Petition for Variance for Cranston Realty Co.

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND
No. 29917
DATE
TO: Royston, Haller, Thomas & McLean
Campbell Building
Towson, Md. 21204
BILLED BY
COUNTY BOARD OF APPEALS (Zoning)
TOWSON 4, MARYLAND
REPORT TO ACCOUNT NO. 01.712
QUANTITY 1
DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE
COST \$40.00
Cost of Certified Documents - No. 64-58-5PH
Cranston Realty Co.
6/5 York Road 277.20' S. of
Stevenson Lane
Ph District
FBI - Baltimore County, Md. - Official Process
6-264 4555 * 29917 TIP- 600
6-264 4555 * 29917 TIP- 600

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND
No. 29915
DATE 6/25/65
TO: Clayton A. Seld
800 Fidelity Building
Baltimore, Md. 21201
BILLED BY
COUNTY BOARD OF APPEALS (Zoning)
TOWSON 4, MARYLAND
REPORT TO ACCOUNT NO. 01.712
QUANTITY 1
DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE
COST \$60.00
Cost of Certified Documents - No. 64-58-5PH
Cranston Realty Co.
6/5 York Road 277.20' S. of
Stevenson Lane
Ph District
FBI - Baltimore County, Md. - Official Process
6-264 7833 * 29915 TIP- 600

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland
District 9th
Date of Posting 1/16/64
Posted for: Hearing held March 4, 1964, at 7:00 PM
Cranston Realty Co.
Petitioner: 618 N. K. R. Rd. 277.20' S. of
Stevenson Lane
Location of Sign: 618 N. K. R. Rd. 277.20' S. of
Stevenson Lane
and 800 Fidelity Building, Baltimore, Md. 21201
Remarks: 618 N. K. R. Rd. 277.20' S. of
Stevenson Lane
Posted by: Robert J. Morgan
Signature Date of return 1/16/64

OF THE
THE BALTIMORE COUNTIAN
THE COMMUNITY NEWS
Baltimore, Md.
THE HERALD-ARGUS
Catonville, Md.
No. 1 Newburg Avenue
CATONVILLE, MD.
February 17, 1964
THIS IS TO CERTIFY, that the annexed advertisement of
John S. B. W., Zoning Commissioner of
Baltimore County
was inserted in THE BALTIMORE COUNTIAN, a group of
three weekly newspapers published in Baltimore County, Mary-
land, once a week for 1963 successive weeks before
the 17th day of February, 1964, that is to say
the same was inserted in the issues of
February 14, 1964.
THE BALTIMORE COUNTIAN
By Paul J. Morgan
Editor and Manager

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND
No. 21634
DATE 2/28/64
TO: Messrs. Proctor, Royston & Haller
Campbell Building
Towson 4, Md.
BILLED BY
Zoning Department of
Baltimore County
REPORT TO ACCOUNT NO. 01.622
QUANTITY 1
DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE
COST \$60.50
Advertising and posting of property for Cranston Realty
618-58-4
FBI - Baltimore County, Md. - Official Process
6-264 712 * 21634 TIP- 6050

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

OFFICE OF
THE BALTIMORE COUNTIAN
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Baltimore, Md.
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Division of Collection and Receipts
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TOWSON 4, MARYLAND
No. 21634
DATE 2/28/64
TO: Messrs. Proctor, Royston & Haller
Campbell Building
Towson 4, Md.
BILLED BY
Zoning Department of
Baltimore County
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618-58-4
FBI - Baltimore County, Md. - Official Process
6-264 712 * 21634 TIP- 6050

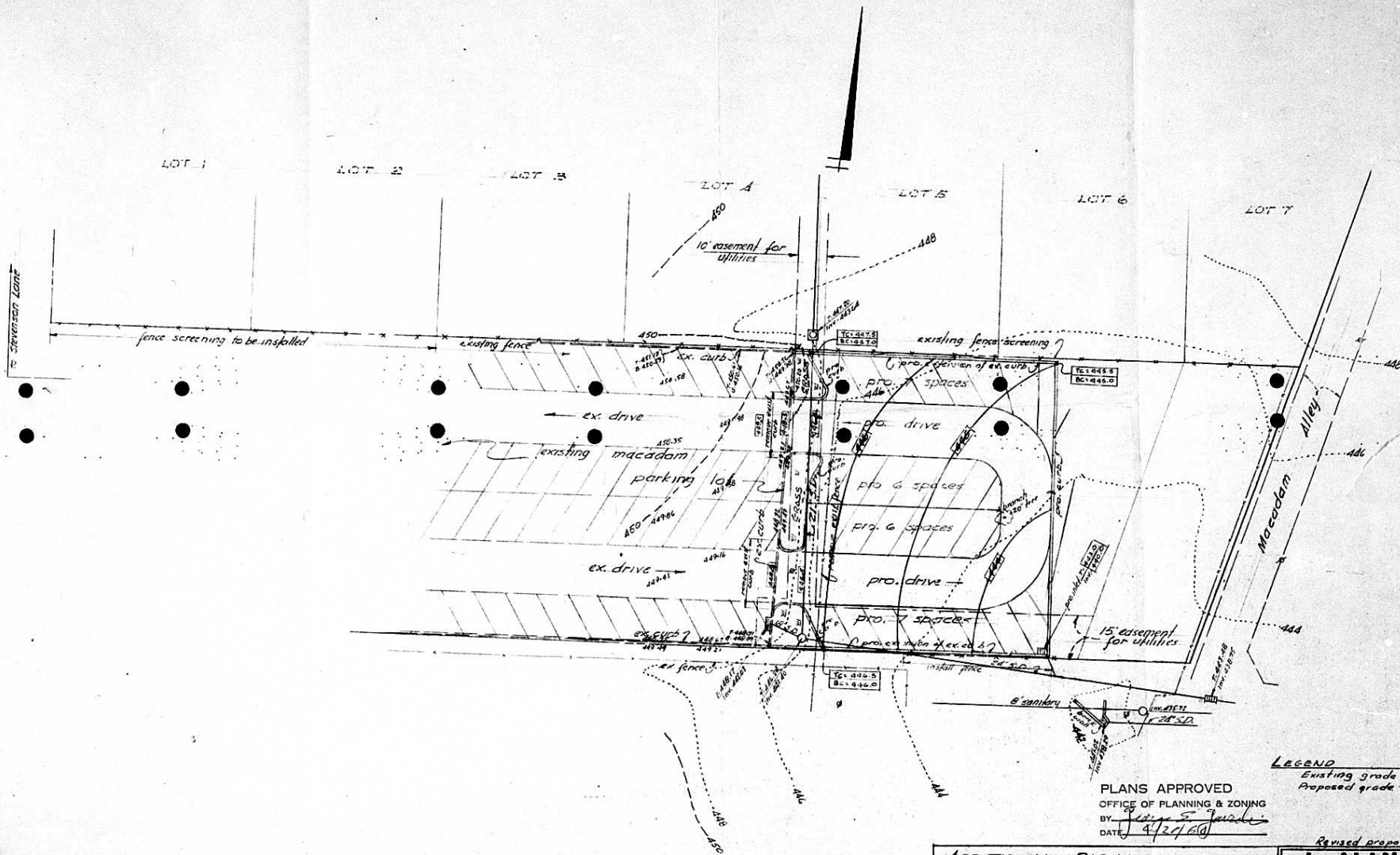
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THE BALTIMORE COUNTIAN
By Paul J. Morgan
Editor and Manager

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND
No. 21634
DATE 2/28/64
TO: Messrs. Proctor, Royston & Haller
Campbell Building
Towson 4, Md.
BILLED BY
Zoning Department of
Baltimore County
REPORT TO ACCOUNT NO. 01.622
QUANTITY 1
DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE
COST \$60.50
Advertising and posting of property for Cranston Realty
618-58-4
FBI - Baltimore County, Md. - Official Process
6-264 712 * 21634 TIP- 6050

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND
No. 21634
DATE 6/24/64
TO: Clayton A. Seld, Rev.
800 Fidelity Building
Baltimore 14, Md.
BILLED BY
Office of Planning & Zoning
319 County Office Bldg.,
Towson 4, Maryland
REPORT TO ACCOUNT NO. 01.622
QUANTITY 1
DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE
COST \$60.00
Cost of appeal - Cranston Realty Co. \$35.00
Posting \$ 5.00
6-264 4555 * 23270 TIP- 4000
6-264 4555 * 23270 TIP- 4000

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.



LEGEND
Existing grade -- 906.6
Proposed grade -- 906.6

PLANS APPROVED
OFFICE OF PLANNING & ZONING
BY: *[Signature]*
DATE: 4/29/60

ADDITIONAL PARKING AT
7215 YORK ROAD FOR
THE CRANSTON REALTY Co.

Revised proposed grades - 906.6
L. ALAN EVANS
SURVEYORS & CIVIL ENGINEERS
2500 ELSDORF AVE. - PHONE BA 8-1144
BALTIMORE 14, MARYLAND
DATE: 4/19/60 SCALE: 1" = 20'



