

#67-85X 2-8
MAP
2-8
WESTERN
AREA
NW-2-E
NW-2-F
"X"

March 10, 1967

Re: 67-85-X -- Garden Construction Co.

Position, description of property, order of Deputy Zoning Commissioner
Certificate of posting
Certificate of advertisement
Letter dated Aug. 19, 1966 from James Padrao enclosing 2 applications
3 letters of protest
Petition of protest
Petition filed with petition
Photogrammetric

2 signs

T. Bayard Williams, Jr., Esq.,
6732 Holabird Avenue,
Dundalk, Maryland 21222

Counsel for petitioner

G. Mitchell Austin, Esq.,
2115 Old Green Road,
Baltimore, Maryland 21220

" " protestant

Mr. Donald Connolly,
3425 W. North Avenue,
Baltimore, Maryland 21207

protestant

Mr. P. T. Lennon,
1029 St. Paul St.,
Baltimore, Maryland 21202

"

August 28, 1967

G. Mitchell Austin, Esq.

24 W. Pennsylvania Avenue

Towson, Maryland 21204

Re: Case #57-86-X and Case #67-86-X
Garden Construction Corporation

Dear Mr. Austin:

Enclosed herewith is a copy of the Opinion and Order passed by the
County Board of Appeals today in the above entitled case.

Very truly yours,

Edith T. Elmhurst, Secretary

cc: T. Bayard Williams, Jr., Esq.

Johnson Bowie, Esq.
Mr. Donald Connolly
Mr. Ross
Mr. Gavrells
Mr. Hendley
Board of Education

HESSEY & HESSEY

JOHN H. HESSEY
JOHN H. HESSEY IV
MARLON H. HESSEY

ATTORNEYS AT LAW
FIDELITY BUILDING
BALTIMORE, MARYLAND 21201

June 23, 1967

County Board of Appeals
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Garden Construction Corporation
File #67-85-X and #67-86-X

Gentlemen:

I am writing to withdraw my appearance and
the appearance of Mr. P. T. Lennon and Reason Land
Leasing Corporation as Protestants in the above-
entitled case. Our withdrawal is due to a conflict
in schedule and we hesitate at this time to seek for
a postponement of this case.

However, our withdrawal is in no way to be
construed as indicating that these Protestants favor
the granting of the Petition, and they oppose in
particular any right to a commercial use on subject
properties.

Sincerely,

John H. Hesse, IV

JHH:Vievh

CC: Mr. P. T. Lennon
Reason Land Leasing Corporation

See 2 6/26/67
73-6-6

HESSEY & HESSEY

JOHN H. HESSEY
JOHN H. HESSEY IV
MARLON H. HESSEY

ATTORNEYS AT LAW
FIDELITY BUILDING
BALTIMORE, MARYLAND 21201

April 17, 1967

County Board of Appeals
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Garden Construction Corporation
File No. 67-85-X

Gentlemen:

Please enter my appearance on behalf of Mr.
P. T. Lennon and Reason Land Leasing Corporation,
Protestants in the above-entitled matter.

Enclosed herewith you will find questionnaire
submitted to Mr. Lennon which is dated March 21
and which has been completed.

Very truly yours,

John H. Hesse, IV

JHH:Vievh
Enclosure

CC: Mr. P. T. Lennon

See 2 4/18/67
9-5-6-6

LAN OFFICES

T. Bayard Williams

6732 HOLABIRD AVENUE
DUNDALK, MARYLAND 21222

TELEPHONE 286-3400 AREA CODE 301

April 3, 1967

County Board of Appeals
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Garden Construction Corp.
File No. 67-85-X and
File No. 67-86-X

Gentlemen:

Enclosed please find the information which
you requested in the two above-mentioned cases.

Very truly yours,

T. Bayard Williams, Jr.

THB:ano

Enclosures

October 15, 1966

Mr. Edward D. Harrest
Deputy Zoning Commissioner
Towson 4, Md.

Dear Sir:
The re-zoning area off Depue Rd near
Woodlawn would be a detriment to the property owners there
because of the crowded conditions and no parking area.
The school would be overcrowded and this inadequate
for transportation with many children. The children would
result in vandalism and destruction of property. There
is no room for recreation for the children. Our parents
and grand would all have to live like we live. I am
other neighborhoods. I am sure that there is
are over crowded area. I am sure that there is
spending millions of dollars to beautify our nation and
we are with her. The big stream of water is
beautiful. This must give way to not and doing to an
over crowded area. Most of these property owners
are middle-aged people and cannot make
another move. I am very much against the
re-zoning of this area.

Sincerely,

Edith T. Elmhurst

WMA BELLEVILLE
2101 THISTLEWOOD RD
BALTIMORE MD
21207

Oct 14, 1966

Mr. Edward D. Harrest
Deputy Zoning Commissioner
Towson 4, Md.

Dear Sir:
The re-zoning area off Depue Rd near
Woodlawn would be a detriment
to the property owners there because of the
crowded conditions and no parking area.
The school would be overcrowded and this inadequate
for transportation. With many
children the children would result in
vandalism and destruction of property.
There is no room for recreation for the
children. Our parents and grand would all
live like we live. I am sure that there is
are over crowded area. I am sure that there is
spending millions of dollars to beautify our
nation and we are with her. The big
stream of water is beautiful. This must give
way to not and doing to an over crowded
area. Most of these property owners are middle-
aged people and cannot make another move.
I am very much against the re-zoning of this
area. Sincerely Mrs. M. P. Bell

October 15, 1966
6410 Clifton Avenue
Baltimore, Maryland

Mr. Edward D. Harrest
Deputy Zoning Commissioner
119 County Office Building
Towson 4, Maryland

Dear Sir:

I would like to protest against the rezoning for high
rise apartments on Security Boulevard from Ingleside
Ave. to the Power House.

If you allow any type of apartments to be built in this
area at the present time we will have a terrific problem
providing schools. All of the elementary schools are so
overcrowded at the present. My son is now in the 4th
grade and because of the schools been overcrowded in this
area he has attended 3 different schools in 4 years. I
feel sure if this area allows many more apartments we will
have all children on shifts. You can see what this can do
to our educational system in this area.

There are absolutely not enough of recreational facilities
at the present. How are we going to provide for more?

I would appreciate it if you would take these things in
consideration before you pass on this zoning for high
rise apartments.

Thank you for your consideration.

Sincerely yours,

(Mrs.) Phyllis White

5528 Clifton Ave
5524 - Clifton Ave
5522 Clifton Ave
5522 Clifton Ave
5506 Clifton Ave
5506 Clifton Ave
5524 Clifton Ave
5511 Clifton Ave.
5519 Clifton Ave.
5519 Clifton Ave.
5529 Clifton Ave
5535 Clifton Ave
5535 Clifton Ave
5527 Clifton Ave
5506 Highland St
5537 Clifton Avenue
1000 Windsor M11 Rd

Mrs. Patey Hadden
 Mrs. Lillian Shomo
 Charles W. Zimmerman
 Elsie Simmons
 Eileen Wains
 Her Edwin
 W. H. Mabrey
 Margaret Maderoy
 Margaret Schmitt
 Ann G. McAvoy
 Mrs. F. J. Case (Lida)
 Mrs. J. Lawrence Getty
 Mrs. George Zeltman
 George E. Hunter
 Mrs. Catherine Hunter
 W. H. McAlister
 Mrs. Anna L. Taylor
 Mr. Donald L. Zimmerman
 Mrs. Anne A. Zimmerman
 Mrs. Wm. H. Dutcher
 Mrs. Helen Robbins
 Mrs. Nellie McIntire
 Mr. John Stewart
 Mrs. Julia Emberton
 Mrs. John Kelly
 Mrs. Charles Eaton
 Mrs. Carrie Sullivan
 Mrs. Marcelle P. Palmer

2002 Oak Drive
5410 - Clifton Ave.
5417 Clifton Ave.
5417 Clifton Ave.
1913 Oak Drive
5419 Clifton Ave.
5421 Clifton Ave.
5421 Clifton Ave (7)
5423 Clifton Ave (1)
1913 Kernan Dr. (7)
2000 Kernan Drive (7)
2002 Kernan Dr. (7)
2001 Kernan Dr. (7)
2008 Kernan Drive 21207
4008 Kernan Drive 21207
5301 Wendover Pl.
2007 Kernan Dr. 21207
2005 Kernan Dr 21207

2003 Kernan Drive 21207
2003 Kernan Dr 21207
2001 Kernan Drive 21207
" " " "
1650 Anglin Ave
5411 Kent
5425 Wotton Ave.
5488 Wotton Ave.
3000 Wendover Pl.

Joseph R. Dell
Charlie Burgin
Thelma Burger
Mrs Grace Sutt
Lester Sutt
John C. Burkhardt
Betty Engbacht
Bernice Sutt
Charles, 1st Sgt. of
Major C. Smith
Richard L. Smith
Vernon W. Wagner
Twining Wagner
Mr. & Mrs. W. S. Walton
Mr. S. J. Janssen
Miss Peter J. Kaus
Mrs. John C. Boone
Robert C. Spencer
Mrs. Catherine C. Taylor
Mr. Edwin F. Taylor
Mrs. Margaret A. Price
William H. Price
Alfred W. Haskaway
Mr. Albert C. Price
Robert L. Newlin
Howard W. Jones
Red Madel Moulton
Mayfield C. M^{rs} Cundy

8403 Newton Ave.
2004 Windsor Bl.
2004 Windsor Bl.
2002 Windsor Bl.
" "
5436 Dogwood Rd.
5436 Dogwood Rd.
5434 Dogwood Rd.
5434 Dogwood Rd.
5442 Dogwood Rd.
5501 Dogwood Rd.
5501 Dogwood Rd.
5508 Dogwood Rd.
5508 Dogwood Rd.
5500 Dogwood Rd.
1906 Park Place
1906 Park Place
1910 Park Place
1912 Park Place
1912 Park Place
1912 Park Place
1912 Park Place
1916 Park Place
1918 Park Place
2004 Park Place
2004 Park Place
2004 Park Place
1734 Valley Rd.

We, the undersigned, residents of homes in the area bounded by Geyser Oak Avenue, Security Boulevard, Dogwood Road and Forest Park Avenue, protest herewith to the erection of eight (8) high-rise, six (6) story elevator apartments, on nine (9) acres, at twenty-one (21) units per acre, on Security Boulevard, between Forest Park Avenue and the Shell Station on Security Boulevard, and ask that zoning for this proposed construction be refused.

We object to this construction for the following reasons:

1. In order to erect these buildings it will be necessary to fill in a stream which runs parallel to Security Boulevard, through the proposed building site. This stream carries the runoff from surrounding hills and has already overflowed endangering property lying close to it. If the stream is filled in, a health problem will be created with no place for the stream to flow.

2. The residents of this area are already overburdened with a traffic problem created by the thousands of workers at the Social Security Building. It is virtually impossible to get out of this section with a car between 4:20 p.m. and 5:30 p.m., when the Social Security workers leave the building.

3. The schools in the area are at full capacity, junior high students having to use space in the senior high school, with no elementary school in the entire area.

Isaac Wenzly 1744 Little Creek Dr. 21207
 Marie Wenzly 1744 Little Creek Dr. 21207
 Harriet Wabbe 1751 Little Creek Dr. 21207
 Elbert Wabbe 1751 Little Creek Dr. 21207
 John Wabbe 1743 Little Creek Dr. 21207
 Betty Woodruff 1743 Little Creek Dr. 21207
 Ed Wabbe 6103 Sunny Lane

June Michler 6103 Sunny Ln

we, the undersigned, wish to petition against the proposed six story Mi-rise apartments to be located on line 67, acres located on Security Boulevard between Forest Park Avenue and the Shell Station on Security Boulevard.

We object to this construction for the following reasons:

1. The proposed construction will include retail outlets changing the basic zoning for the area.

2. In order to construct the proposed buildings it will be necessary to restrict the flow of Dead Run, which is vital to the storm drain system - creating a very probable health problem. This stream is labeled as Typhoid danger.

3. Traffic problems at peak times are already overwhelming to area residents. These apartments exiting onto Security Boulevard will only serve to compound the problem.

4. Schools are filled to capacity. Additional Families in the area would only lead to part-time education for our children.

<u>Name</u>	<u>Address</u>
Marie Nelson	5301 Clifton Ave
John Paul Selt	5515 Hawthorn Mill Road
Shirley O'Brien	2123 Norriane Ave.
Charles Kress	5800 Windsor Mill Rd
Margaret Schae	5818 Windsor Mill Rd
Stedley Lewis	1144 St. Agnes Lane.
Lee Bradford	2006 Madley Ave.
John W. Bergman	2137 Norriane Ave
Donald D. Clarke Jr.	1634 Dogwood Rd.
Albert H. Phillips Jr	2119 Norriane ave 21207

Charles Miller
Douglas E. Baerman
Walter J. Boyell
Daniel J. Brown
Marie J. Gary
John B. Groat
Sister Augustine
Wesley T. Harrison
Kenneth L. Pearson
Shirley McRae
Earl H. Nielson
Leroy M. Rued
Roy Schmitt
Charles Miller
A. M. Wankel
W. L. Segler Jr.
J. E. Hemmick
Leroy J. Hemmick
E. A. Allen
Joseph E. Smith
Vivian Colby
Thomas W. Davis
Wall Lins
Lester V. Lins
Constance A. Vincent
Lester W. Vincent

3911 Arcadia ave 212. 15
2144 Terrace ave 21207
2032 Southland Rd 21217
2123 Main St 21207
2650 West Park Drive 21207
2679 W 54th Dr. 21207
5511 Long Ave 21207
29 Summit St Rd 21207
2012 Oak Drive - 21207
1207 Valley Brook Ct - 21229
2003 Elbo Vista Dr 21207
5334 Cliff Dr. 21207
5617 Palmer Ridge
3511 Keweenaw Dr. - 21207
2100 Park Pl. # 7
3846 Wendover Mill Rd. ?
5335 1/2 Wendover Mill Rd. ?
5535 1/2 Wendover Mill Rd. ?
270 Wynn Lake Dr. ?
2011 Oak Drive 21207
2126 Lorraine ave 21207
3814 Wendover Mill Rd. ?
2033 Keweenaw Drive
5913 Dogwood Road 07
5513 Norton Avenue, 7

Zoning Commissioner
Baltimore County
Baltimore County Office Building
Towson 21204 Maryland

5440 Dogwood Road
Baltimore Md., 21207
October 17, 1966

Dear Sir:
We respectfully request that you disapprove pending application No. 67-85-X to rezone the land on the north side of Security Boulevard in the vicinity of Colonial Road from residential to Elevator apartments with accessory business for tenancy use.
Our reasons for this request include but are not limited to the following:
1- This request is the most recent of a long series of rezoning attempts and approvals that are continually changing the basic character of the neighborhood, contrary to the master plan, from a quiet suburban residential neighborhood to a hodgepodge of all sorts of commercial and industrial buildings. A lifetime of work and savings of most of us are invested in our homes and we look to you for protection and help.
2 Apartments can only increase the demand on water, sewer, highway and school facilities. Traffic and parking are real problems now due to the Social Security Buildings.
3- There are many empty stores in the surrounding shopping centers that can serve the area.
4- The land for the proposed apartments is adjacent to Dead Run which drains the storm water from as far west as Rolling Hill and Rt 50 West. In the years prior to the present drought, this stream has flooded and closed Dogwood Road and Kerman Drive. Baltimore County has spent considerable money channelizing this stream and in the past has not allowed building near the stream. We would like to point out that any encroachment on this stream will cause flooding in the future during storm periods and as flood damage is not covered by insurance, we would like to put the owners of the proposed buildings, on notice that we will seek recovery from them for flood damage to our properties.
We trust that you will see fit to disapprove this application and protect our homes.
Please advise us by mail of your decision in the event that you do not make it today.

Respectfully Submitted

*W. A. Selway Jr. 5440 Dogwood Road 21207
Baltimore Md. Selway was subject and 21207
Arthur L. Selway 1111 Eastwood Lane
Ft. Calverton 19256 Maryland Ave
Richard L. Smith 5442 Dogwood Rd.
Angela L. Smith 5442 Dogwood Rd.*

RE: Petition for Special Exceptions
N/Side Security Boulevard 240 feet
NW of Colonial Road - 1st Dist. &
NE/Side Security Boulevard 240
feet SE of Colonial Drive - 1st Dist.
Garden Construction Corporation,
Petitioner

* BEFORE THE ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Petition No. 67-85-X

John G. Rose
Zoning Commissioner of
Baltimore County

APPEAL

Please note on Appeal to the Baltimore County Board of Appeals on behalf of the
Protestants, William F. Stitely, et al. in the above captioned case.

G. Mitchell Austin
G. Mitchell Austin
Attorney for the Protestants
2115 Old Ore Road
Baltimore, Maryland 21220
MU 6-5050



RE: Petition for Special Exceptions
N/Side Security Boulevard 240 feet
NW of Colonial Road - 1st Dist. &
NE/Side Security Boulevard 240
feet SE of Colonial Drive - 1st Dist.
Garden Construction Corporation,
Petitioner

* BEFORE THE ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Petition No. 67-85-X

John G. Rose
Zoning Commissioner of
Baltimore County

APPEAL

Please note on Appeal to the Baltimore County Board of Appeals on behalf of the
Protestants, William F. Stitely, et al. in the above captioned case.

G. Mitchell Austin

G. Mitchell Austin
Attorney for the Protestants
2115 Old Ore Road
Baltimore, Maryland 21220
MU 6-5050



67-85-X + P2X

March 9, 1967

T. Bayard Williams, Jr., Esquire
6732 Holabird Avenue
Baltimore, Maryland 21222

RE: Petition for Special Exceptions
N/Side Security Boulevard 240 feet
NW of Colonial Road - 1st Dist. &
NE/Side Security Boulevard 240
feet SE of Colonial Drive - 1st Dist.
Garden Construction Corporation,
Petitioner - Nos. 67-85-X
and 67-86-X

Dear Mr. Williams:

Please be advised that appeals have been
filed in the above matter from the decisions rendered by the
Deputy Zoning Commissioner.

You will be notified of the date and time
of hearing when scheduled by the Board of Appeals.

Very truly yours

Zoning Commissioner

February 6, 1967

T. Bayard Williams, Jr., Esquire
6732 Holabird Avenue
Baltimore, Maryland 21222

RE: Petition for Special Exceptions
N/Side Security Boulevard 240 feet
NW of Colonial Road - 1st Dist. &
NE/Side Security Boulevard 240
feet SE of Colonial Drive - 1st Dist.
Garden Construction Corporation,
Petitioner
NO. 67-85-X and NO. 67-86-X

Dear Mr. Williams:

I have this date passed my Order

in the above captioned matter. Copy of said Order is attached.

Very truly yours,

Edward D. Hardesty
EDWARD D. HARDESTY
Deputy Zoning Commissioner

EDH/jdr

cc: G. Mitchell Austin, Esquire
2115 Old Ore Road
Baltimore, Maryland 21220

Mr. Donald Connolly
5425 W. North Avenue
Baltimore, Maryland 21207

Mr. P. T. Lamon
1029 St. Paul Street
Baltimore, Maryland 21202

February 6, 1967

T. Bayard Williams, Jr., Esquire
6732 Holabird Avenue
Baltimore, Maryland 21222

RE: Petition for Special Exceptions
N/Side Security Boulevard 240 feet
NW of Colonial Road - 1st Dist. &
NE/Side Security Boulevard 240
feet SE of Colonial Drive - 1st Dist.
Garden Construction Corporation,
Petitioner
NO. 67-85-X and NO. 67-86-X

Dear Mr. Williams:

I have this date passed my Order

in the above captioned matter. Copy of said Order is attached.

Very truly yours,

Edward D. Hardesty
EDWARD D. HARDESTY
Deputy Zoning Commissioner

EDH/jdr

cc: G. Mitchell Austin, Esquire
2115 Old Ore Road
Baltimore, Maryland 21220

Mr. Donald Connolly
5425 W. North Avenue
Baltimore, Maryland 21207

Mr. P. T. Lamon
1029 St. Paul Street
Baltimore, Maryland 21202

February 6, 1967

T. Bayard Williams, Jr., Esquire
6732 Holabird Avenue
Baltimore, Maryland 21222

RE: Petition for Special Exceptions
N/Side Security Boulevard 240 feet
NW of Colonial Road - 1st Dist. &
NE/Side Security Boulevard 240
feet SE of Colonial Drive - 1st Dist.
Garden Construction Corporation,
Petitioner
NO. 67-85-X and NO. 67-86-X

Dear Mr. Williams:

I have this date passed my Order

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Very truly yours,

Edward D. Hardesty
EDWARD D. HARDESTY
Deputy Zoning Commissioner

EDH/jdr

cc: G. Mitchell Austin, Esquire
2115 Old Ore Road
Baltimore, Maryland 21220

Mr. Donald Connolly
5425 W. North Avenue
Baltimore, Maryland 21207

Mr. P. T. Lamon
1029 St. Paul Street
Baltimore, Maryland 21202

February 6, 1967

T. Bayard Williams, Jr., Esquire
6732 Holabird Avenue
Baltimore, Maryland 21222

RE: Petition for Special Exceptions
N/Side Security Boulevard 240 feet
NW of Colonial Road - 1st Dist. &
NE/Side Security Boulevard 240
feet SE of Colonial Drive - 1st Dist.
Garden Construction Corporation,
Petitioner
NO. 67-85-X and NO. 67-86-X

Dear Mr. Williams:

I have this date passed my Order

in the above captioned matter. Copy of said Order is attached.

Very truly yours,

Edward D. Hardesty
EDWARD D. HARDESTY
Deputy Zoning Commissioner

EDH/jdr

cc: G. Mitchell Austin, Esquire
2115 Old Ore Road
Baltimore, Maryland 21220

Mr. Donald Connolly
5425 W. North Avenue
Baltimore, Maryland 21207

Mr. P. T. Lamon
1029 St. Paul Street
Baltimore, Maryland 21202

ORDER RECEIVED FOR FILING

DATE 2/6/67
BY Jerome Clark
ADMINISTRATIVE SERVICES

PETITION FOR SPECIAL EXCEPTIONS
N/Side Security Boulevard 240 feet :
NW of Colonial Road - 1st Dist. :
NE/Side Security Boulevard 240 :
feet SE of Colonial Drive - 1st Dist. :
Garden Construction Corporation.
Petitioners:

BEFORE THE
DEPUTY ZONING COM-
MISSIONER OF
BALTIMORE COUNTY
67-85-X and 67-86-X

The Petitioner seeks a Special Exception to use its property for elevator apartment buildings or in other words high rise apartments. The facts and circumstances in both cases are identical so both Petitions will be treated as one.

The subject properties consist of two tracts. Tract 1, consisting of 8.5 acres is situated on the N side of Security Boulevard 240 feet NW of Colonial Road. Tract 2, consisting of 5 acres is situated on the NE side of Security Boulevard 240 feet SE of Colonial Drive. Both tracts, owned by the same corporation, are zoned RA by virtue of the zoning map. If the tracts were developed in their present zoning, the Petitioner could construct 216 units. If a Special Exception for high rise apartments is granted, then the Petitioner could construct 255 units.

Plans call for the construction on tract 1 of a six-story elevator apartment building containing 160 units with off-street parking for 284 vehicles. A six-story apartment building consisting of 95 units would be constructed on tract 2 with 109 off-street parking spaces. Projected rentals would run from \$150 to \$190 per month.

Mr. Jerome Wolff, a consulting engineer, who also qualifies as a traffic expert, testified that water and sewer are available and adequate. He further testified that there would be no serious traffic congestion created by the construction of the aforementioned apartment dwellings. He stated that Security Boulevard is four lanes divided by a median strip and further that this major artery could accommodate the traffic to be generated by the apartment. His testimony in essence was that the granting of the Special Exception in this matter would not violate Section 502.1 (requirements of Special Exceptions) of the Baltimore County Zoning Regulations.

The neighborhood has steadily undergone a change in character. The Social Security complex, is located on the S side of Security Boulevard just W of the subject tracts. It is generally understood that this complex will in the near future be enlarged. Just to the E on the S side of Security Boulevard near its intersection with Inland Avenue another large garden-type apartment complex is currently being constructed.

Most of the protest was based on the fear that the proposed high rise apartments would create traffic congestion on the streets and that children living in the apartments would be forced to attend schools which are already over crowded. There was also some alarm expressed that the proposed apartments would possibly aggravate the flood condition in that area between the rear of the proposed structures and Dogwood Road.

With respect to the traffic congestion, Mr. Wolff was of the definite opinion there would be none. As to the possible flooding conditions Mr. Wolff testified that the proposed apartment building would in no way create or aggravate a flood condition. As a practical matter, Baltimore County would not issue a building permit or enter into a Public Works Agreement if there was any possibility that a flood condition would be created. With respect to the over crowding of schools, experience teaches that there are very few children of school age in high rise apartments.

The Deputy Zoning Commissioner received the impression that the aggrieved neighbors are treating this case as a reclassification instead of a Special Exception. These tracts are already zoned for garden-type apartments and there is nothing to prevent the Petitioner from developing them as such. As a matter of fact, there would probably be more children in garden-type apartments than in the proposed high rise.

In conclusion the Deputy Zoning Commissioner feels that the Petitioner has met the burden of proof in complying with the requirements of Section 502.1 of the Baltimore County Zoning Regulations, and is of the opinion that the Petitions for Special Exceptions for elevator apartment buildings should be granted.

For the foregoing reasons, IT IS ORDERED by the Deputy Zoning Commissioner that the Special Exception for elevator apartment buildings should be and the same is granted from and after the date of this order, subject to the following:

1. No part of the proposed buildings shall be used for commercial purposes.
2. All traffic ingress and egress restricted to and by way of Security Boulevard.
3. The site plans shall be subject to the approval of the Office of Planning and Zoning, Bureau of Public Services and the State Roads Commission.

Edward D. Hardesty
EDWARD D. HARDESTY
Deputy Zoning Commissioner

Date: February 6, 1967

ORDER RECEIVED FOR FILING
DATE 2/6/67
BY Jerome Clark

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

TO: 67 Mitchell Austin, Esq.,
2115 Old Green Road,
Baltimore, Maryland 21220

DATE 2/16/67

INVOICE NO. 44333

REPORT TO ACCOUNT NO. 61-622

QUANTITY	DETAILS ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS	TOTAL AMOUNT
Cost of appeal - Garden Construction	\$70.00	
No. 67-85-X	posting 10.00	80.00
	PAID -	
	\$-13-61 * * * * \$4333 SP-	80.00
	\$-13-61 * * * * \$4333 SP-	80.00

2

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

TO: 67 Mitchell Austin, Esq.,
2115 Old Green Road,
Baltimore, Maryland 21220

DATE 2/16/67

INVOICE NO. 44333

REPORT TO ACCOUNT NO. 61-622

QUANTITY	DETAILS ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS	TOTAL AMOUNT
Cost of appeal - Garden Construction	\$70.00	
No. 67-85-X	posting 10.00	80.00
	PAID -	
	\$-13-61 * * * * \$4333 SP-	80.00
	\$-13-61 * * * * \$4333 SP-	80.00

4

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1st

Date of Posting: 2/16/67

Posted for: *Jerome Clark*

Petitioner: *Jerome Clark*

Location of property: *Security Boulevard 240 feet NW of Colonial Road*

Location of Sign: *Security Boulevard 240 feet NW of Colonial Road*

Remarks: *See map of Baltimore County, Maryland, showing the location of the property.*

Posted by: *Jerome Clark*

Date of return: *2/16/67*

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. John G. Rose, Zoning Commissioner Date: October 7, 1966

FROM: Leslie H. Graef, Deputy Director of Planning

SUBJECT: Petition #67-85-X. North side of Security Boulevard 240 feet Northwest of Colonial Road. Petition for Special Exception for Elevator Apartment Building including accessory business use for the convenience of its tenants. Garden Construction Corporation. - Petitioners.

1st District

HEARING: Mauday, October 17, 1966, (11:00 A.M.)

The planning staff of the Office of Planning and Zoning will offer no adverse comment on the subject petition. Should it be decided to grant the petition, however, we request that the grant be conditioned upon approval of the site plan by this office.

JEROME B. WOLFF, P. E.
JAMES PETRICA, P. E.
JOHN J. LENTZ, P. E. D. E.

JEROME B. WOLFF AND ASSOCIATES
Consulting Engineers
SUITE 403 JEFFERSON BUILDING
TOWSON, MARYLAND

August 19, 1966

Re: Submittal of Applications, Plans, and Description for Security Boulevard Properties Special Exceptions, 8.5 and 5.0 Acre Tracts

Mr. James Dyer, Chief
Petition & Permit Processing
Baltimore County
County Office Building
Towson, Maryland 21204

Dear Mr. Dyer:

We are submitting herewith two applications together with accompanying documentation and plans for a special exception hearing for mid-rise apartments on two separate parcels of property. These two parcels, one of 8.5 acres and the other of 5.0 acres, are presently zoned RA and are located on Security Boulevard in the vicinity of Colonial Drive.

It will be greatly appreciated if this submittal is processed as early as possible.

With kindest personal regards, I remain

Very truly yours,

James Petrica
James Petrica

JBW:cjl

CC Mr. Erwin L. Greenberg

October 14, 1966

T. Bayard Williams, Jr., Esq.
6732 Holabird Avenue
Dundalk, Md. 21222

Re: Petition for Special Exception for Garden Construction Corp., 667-85-X

Dear Sir:

This is to advise you that \$96.75 is due for advertising and posting of the above property.

Please make check payable to Baltimore County, Md. and mail to Mr. Anderson, Room 119, County Office Building before the hearing.

Yours very truly,

JOHN G. ROSE
ZONING COMMISSIONER

JGR/ba

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

October 7, 1966

COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVE.
TOWSON, MD. 21204
10-3000

GEORGE E. GAYNE
DIRECTOR
JOHN G. ROSE
ZONING COMMISSIONER

T. Bayard Williams, Jr., Esq.
6732 Holabird Ave.
Dundalk, Md. 21222

Dear Sir:

The enclosed memorandum is sent to you in compliance with Section 23-22 of the 1961 Supplement of the Baltimore County Code.

Any questions of correspondence in regard to the enclosed subject matter must be directed to the Director of Planning and Zoning (or his Deputy) and NOT to the Zoning Commissioner.

If you desire to have a member of the Planning Staff testify, it will be necessary for you to summons him through the Sheriff's Office.

Yours very truly,
John G. Rose
JOHN G. ROSE
ZONING COMMISSIONER

JGR/ba
encl:

September 3, 1966

T. Bayard Williams, Jr., Esq.
6732 Holatird Ave.
Dundalk, Md. 21222

NOTICE OF HEARING

Re: Petition for Special Exception for Garden Constr. Co.
#67-85-X

TIME: 11:00 A.M.
DATE: Monday, October 17, 1966
PLACE: ROOM 105 COUNTY OFFICE BUILDING, 111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND.

ZONING COMMISSIONER OF
BALTIMORE COUNTY

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

T. Bayard Williams, Jr., Esquire
6732 Holatird Avenue
Dundalk, Maryland 21222

SUBJECT: Special Exception - Elevator
Apartment Building for Garden
Construction Corporation,
located N/S Security Blvd
240' SE of Colonial Drive
1st District
(Item 3, September 6, 1966)

Dear Sir:

The Zoning Advisory Committee has reviewed the subject petition and makes the following comments:

BUREAU OF ENGINEERING:

Water - Existing 24" water in Security Boulevard.
Sewer - Existing 6" sewer in Colonial Drive.
Adequacy of existing utilities to be determined by developer or his engineer.
Storm Drain - The developer or his engineer is responsible for determining the limits of the Dead Run Flood Plain, and the backwater affect from the bridge at Colonial Drive.

BUREAU OF TRAFFIC ENGINEERING: This office will submit comments at a later date.

The above comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems that may have a bearing on this case. The Director and/or the Deputy Director of the Office of Planning and Zoning will submit recommendations on the appropriateness of the requested zoning 10 days before the Zoning Commissioner's hearing.

Fire Bureau
Health Department
Industrial Development Commission
Board of Education
Buildings Department
State Roads Commission
Office of Planning and Zoning

Very truly yours,

James M. O'Neil
JAMES M. O'NEIL, Principal
Zoning Technician

JMO:ym

cc: Carlyle Brown-Bureau of Engineering
C. Richard Moore-Bureau of Traffic Engineering

-2-

Security Boulevard, 240 feet southeast of Colonial Drive. Both parcels are irregular in shape and lie between Security Boulevard and a stream known as Dead Run. Both tracts are located in the First Election District of Baltimore County and were placed in a R.A. (Residence, Apartments) zoning classification by virtue of the Western Area Comprehensive Zoning Map adopted by the County Council in November of 1962. The Petitioners, in both Petitions, are Garden Construction Corporation, Inc., owner, and A.E.T., Inc., contract purchaser. The Appellants here (the protestants below) are William Stitley and Yvonne Stitley, his wife, owners of the premises known as No. 1925 Colonial Drive, which is situate on the southwest side of Colonial Drive and the northerly side of Dead Run between the two parcels of land in question.

There is planned to be erected on the 8.5 acre parcel a mid-rise six-story apartment building consisting of 160 units and on the 5 acre parcel a similar mid-rise six-story apartment building consisting of 95 units. The total number of apartment units proposed is 255, an increase of 20 units over the 235 apartments permitted on the subject properties under the existing zoning without any special exception.

Security Boulevard, at the location of the subject properties, was considered to run generally in an easterly and westerly direction. It is a dual boulevard on a 120 foot right of way. There are 3 lanes for west bound traffic, and 2 lanes for east bound traffic, each on 32 feet of paving. There is a traffic control signal at the intersection of Security Boulevard and Colonial Drive as well as at the intersection of said boulevard and Ingleside Avenue, the last named intersection being approximately 1300 feet southeast of the 5 acre parcel. The only means of vehicular access to both parcels is by means of Security Boulevard. There is no means of ingress and egress to either parcel

GARDEN CONSTRUCTION CORPORATION
A. E. T., Inc., Contract Purchaser
N/S Security Boulevard 240' SE and 240' NW
of Colonial Drive

#67-85-X and
#67-86-X
1st District

SE - Elevator Apartment Buildings

Sept. 6, 1966 Petition filed
Feb. 6, 1967 Special Exceptions GRANTED by D.Z.C.
Mar. 8 Order of Appeal to C. B. of A. filed (both cases)
Aug. 23 Order of C. B. of A. GRANTING Special Exceptions
Sept. 28 Order of Appeal filed in the Circuit Court
Oct. 25 Record of proceedings filed in the Circuit Court
May 20, 1968 BOARD AFFIRMED - Judge Jenifer
June 19 Order for Appeal filed in the Court of Appeals of Maryland
July 17 Petition to extend time for transmitting records for 60 days and Order of Court granting same
Nov. 8 Motion to Dismiss Appeal due to " " the Plaintiffs have not paid for the record as required by Rule 813 of the Maryland Rules of Procedure within the time required for transmitting the record on appeal." Filed by T. Bayard Williams, Jr. and Johnson Bowie, Attorneys for Petitioners
Nov. 8 Order of Court dismissing appeal - Judge Lester L. Barrett

11/13/68

Re:

Per telephone conversation today with Johnson Bowie this case was appealed to the Court of Appeals but was subsequently dismissed. He is sending me a copy of the appeal and the dismissal, and after noting same in my docket I will include them in the files, which in turn will be closed out and returned to you. I will see that a copy of each document is included in each file.

Edith

The Circuit Court for Baltimore County

THIRD JUDICIAL CIRCUIT OF MARYLAND
WALTER M. JENIFER
CLERK

TOWSON, MARYLAND 21204

May 20, 1968

Mr. John G. Ross
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Petition for Special Exception for Elevator Apartment Buildings - Stitley et al. (Procs. 1st District Miscellaneous Docket 3, Folio 239, Case No. 1624)

Dear John:

I am enclosing copy of Memorandum Opinion and Order of Court which I have today filed in the above entitled case.

With kind regards, I am

Sincerely,

Walter M. Jenifer
Walter M. Jenifer

WMJ:m

Enclosure

PETITION FOR SPECIAL EXCEPTION
for Elevator Apartment Buildings,
including accessory business uses
for the convenience of its tenants
N/S Security Blvd., 240' SE of
Colonial Drive.
1st District of Baltimore County
Garden Construction Corporation,
Petitioner,
A.E.T., Inc., Contract Purchaser

WILLIAM STITLEY
YVONNE STITLEY
(Protestants)

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

AT LAW

Miscellaneous Docket 3
Folio 239
Case No. 1624

GARDEN CONSTRUCTION CO.
#67-85-X AND #67-86-X

MEMORANDUM OPINION
AND ORDER OF COURT

This case involves an appeal from the County Board of Appeals of Baltimore County (hereinafter referred to as the "Board") which by its Order dated August 25, 1967, granted special exceptions under the provisions of Section 215.5 of the Baltimore County Zoning Regulations for elevator apartment buildings on the two parcels of ground described in this proceeding. The special exceptions were granted "subject to site plan approval of the Office of Planning and Zoning, Bureau of Public Services, and the State Roads Commission". The Deputy Zoning Commissioner of Baltimore County, by his Order dated February 6, 1967, had likewise approved the Petition for the special exceptions requested.

There are two parcels of ground involved. The first parcel is described in Petition No. 67-85-X containing approximately 8.5 acres of land situate on the northerly side of Security Boulevard, 240 feet northwest of Colonial Drive. The second parcel is described in Petition No. 67-86-X containing approximately 5 acres of land situate on the northeasterly side of

-3-

from Colonial Drive. There is no difficulty presented for traffic west bound on Security Boulevard being afforded access to both proposed apartment complexes. In order for east bound traffic on Security Boulevard to have access to the 8.5 acre parcel, it is necessary that these vehicles make a "U" turn at the intersection of Security Boulevard and Colonial Drive and then proceed in a westerly direction for a distance of approximately 700 feet. In order to provide access for east bound traffic on Security Boulevard to the 5 acre parcel, it is necessary that such vehicles proceed easterly to Ingleside Avenue, make a "U" turn at that intersection and then proceed westerly for a distance of 2200 feet. There are in existence deceleration lanes for both east and west bound traffic on Security Boulevard at its intersection with both Colonial Drive and Ingleside Avenue.

The Baltimore County Zoning Enabling Act, known as Bill No. 30 and which became effective July 25, 1960, is now codified as Title 23 of the 1966 Cumulative Supplement to the Baltimore County Code. Section 23-23 of this Act deals with the authority of the Zoning Commissioner to provide for special exceptions and variances and reads as follows:

"Subject to the appropriate principles, standards, rules, conditions and safeguards as set forth in the zoning regulations, the zoning commissioner may grant variances from area and height regulations and may make special exceptions to the zoning regulations in harmony with their general purpose and intent; provided that the issuance of all such special exceptions and variances shall be subject to appropriate principles, standards, rules, conditions and safeguards set forth in the zoning regulations, and that all decisions of the zoning commissioner with respect to such matters shall be subject to appeal to the board of appeals as provided in this article. (Bill No. 30, 1960)."

Section 502 of the Baltimore County Zoning Regulations is a statement of legislative policy with respect to special exceptions and provides as follows:

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"NOTE: Certain types of uses are required to secure a permit to allow them to be placed in one or more zones in which their uncontrolled occurrence might cause unsatisfactory results of one kind or another. A few uses, such as dumps and junk yards, are inherently so objectionable as to make extra regulations and controls advisable even in the M. H. Zone, to which they are restricted. Others, like a cemetery, do not fit into any of the zone categories, that is, residential, business, and industrial, and therefore must be located with discrimination in relation to their surroundings. All the items listed are proper uses of land, but have certain aspects which call for special consideration of such proposal. Because under certain conditions they could be detrimental to the health, safety, or general welfare of the public, the uses listed as Special Exceptions are permitted only if granted by the Zoning Commissioner, and subject to an appeal to the County Board of Appeals."

In passing upon any special exception, the Zoning Commissioner and the County Board of Appeals, upon appeal, are governed by certain principles and conditions which comprise the standards contained in Section 502.1 of the Regulations as follows:

"502.1--Before any Special Exception shall be granted, it must appear that the use for which the Special Exception is requested will not:

- be detrimental to the health, safety, or general welfare of the locality involved;
- tend to create congestion in roads, streets or alleys therein;
- create a potential hazard from fire, panic or other dangers;
- tend to overcover land and cause undue concentration of population;
- interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
- interfere with adequate light and air."

It is conceded by both the Appellants and the Appellees that only Subsections a and b of Section 502.1 are to be considered by the Court in this appeal. The Appellants contend that the Appellees did not produce substantial evidence before the Board making it appear that the requested use of the property for elevator apartments would satisfy the requirements of Subsections a and b referred to. On the contrary, the Appellees contend that they met this burden,

and there was evidence of a substantial nature to justify the Board's finding in granting the special exceptions requested.

The Appellees produced before the Board the testimony of several witnesses, including that of experts. The first witness called on behalf of the Appellees was Joseph D. Thompson, a registered engineer whose qualifications as a traffic study expert were admitted. He testified that a traffic count was made on June 5, 1957, between the hours of 7:00 a.m. to 7:00 p.m. on Security Boulevard, Colonial Drive and Dogwood Road, the last mentioned roadway being situated northeast of the subject properties and intersecting Colonial Drive at a point approximately 400 feet northeast of Security Boulevard. He stated that the "practical capacity" of Security Boulevard was 1400 vehicles per hour for each of the east bound and west bound traffic. He further testified that the traffic count revealed that the greatest density on Security Boulevard for west bound movement was between 7:00 a.m. and 8:00 a.m. or a total of 1436 vehicles per hour and that the average west bound traffic count amounted to 235 vehicles per hour. The peak period for east bound traffic on Security Boulevard was found to be between the hours of 4:00 p.m. and 5:00 p.m., and the traffic count revealed a total of 992 vehicles for this one hour period, and an average of 320 vehicles per hour for the entire day. He concluded that the present west bound traffic load is approximately 50% of capacity, and the east bound load is slightly less than 50% of capacity. He further stated that, in his opinion, the additional 70 units permitted under the special exception for elevator apartments would have no adverse effect on traffic on Security Boulevard, Dogwood Road or Colonial Drive (Tr. p. 10). He admitted on cross-examination that the additional apartment units, being an increase of approximately 8%, would minutely increase traffic on Security Boulevard. He further admitted

that the "U" turn traffic pattern heretofore described at Colonial Drive and Ingleside Avenue would result in a backing up or slowing of traffic in the deceleration lanes on Security Boulevard and "should not be encouraged". He further stated, however, that such traffic pattern would exist under the existing zoning without the special exception, and the granting of such special exception would have only a "negligible" effect. There was some attempt made by counsel for the Protestants to develop through the cross-examination of the witness the probability of the expansion of the Social Security facility located on Security Boulevard approximately 3/4 of a mile distant from the subject properties. The testimony in this regard was nebulous in its nature, bordered on the conjectural and was of little or no probative value.

The second witness called on behalf of the Appellees was Preston L. Grimm, Director of Capital Program Planning for the Board of Education of Baltimore County. His testimony was based on studies made in apartment complexes and a comparison of the students produced in garden type apartment development with high-rise apartment development. It was his opinion that garden type apartments yield a total of 27.6 students per 100 garden type units whereas high-rise apartments yield 7.3 students per 100 units. From the testimony of this witness, it can be concluded that the development of the subject properties as mid-rise apartments would have a tendency to decrease rather than increase the public school population.

The third witness produced by the Appellees was Erwin Greenberg, an investment realtor and President of A.E.T., Inc., the contract purchaser. This witness described the number of units of apartment dwellings proposed for each parcel of land under consideration and the type of construction to be utilized. It was the opinion of this witness that if permission were granted to construct mid-rise six-story apartment buildings, the construction would be

of a higher quality and there would be less disruption to the land in question and after construction, it would remain more attractive than if development was limited to the garden type apartment complex.

The fourth witness produced by the Appellees was Thomas Jewell, an architect who had been consulted by the contract purchaser in a general way regarding this project. He described briefly the proposed construction for the two apartment buildings but stated that no structural plans had been prepared.

The final witness for the Appellees was James Petric, whose qualifications as an engineer in the fields of water supply, sewerage and storm drainage were admitted. He testified that there was adequate water supply and sanitary sewer available to serve the apartment buildings. He further testified that the proposed development of the two properties for elevator apartments would not enlarge the flood control area along the stream known as Dead Run and that no problem existed as far as storm water run off from the apartment complexes. He also testified that certain of the other standards set forth in 502.1 of the Baltimore County Zoning Regulations would be satisfied.

The only witness produced on behalf of the Protestants was the Appellant, Mrs. Yvonne Stittely. This witness was principally concerned with 4 factors: (1) traffic congestion on Security Boulevard and Colonial Drive; (2) the possibility of increased flooding of the residential property owned by her and her husband; (3) the invasion of the privacy of her home by reason of the apartment construction; and (4) depreciation in the value of their property. With respect to the traffic congestion, she testified as to the present difficulty in making a left turn from the east bound lane of Security Boulevard into Colonial Drive and across the west bound lane at peak hours of traffic in the

afternoon. With regard to the flooding of Dead Run, she admitted that in April of 1957 the rear yard of their property was flooded even though no apartment construction had been started. Mrs. Stittely is unalterably opposed to apartment development of any nature, even that permitted under the existing zoning. No expert testimony was offered on behalf of the Protestants to substantiate any of their contentions.

The Court's function of judicial review in a zoning appeal case, such as the case at bar, is of a limited nature. The Court may not substitute its judgment for that of the Board; and if the evidence supporting the decision of the Board is substantial and renders the question of its action fairly debatable, the Board must be affirmed. This rule is equally applicable to the decision of the Board in granting a special exception as well as a zoning reclassification. In the recent case of *Finney v. Hodge*, 241 Md. 224, at page 241, the Court said:

"The trial court, however, was in error in reversing the Board's order granting the special exception to erect the elevator apartments. The factors to be considered by the Board are set forth in Section 502.1 of the Baltimore County Zoning Ordinance. These factors are substantially the same as those set forth in *Crowther v. Board of Zoning Appeals*, 204 Md. 397, 401, 104 A.2d 569, 569 (1954).

"In considering the special exception, the Board acts as a body of zoning experts and the area of judicial review is quite limited. As Judge Delaplaine, for the Court, aptly stated in *Crowther*, supra:

"The function of a zoning board is to exercise the discretion of experts, and the court on appeal will not disturb the board's finding where it has complied with the legal requirements of notice and hearing, and the record shows substantial evidence to sustain the finding." (Page 405 of 204 Md.; page 572 of 104 A.2d). (Underscoring supplied.)

See also *Rohde v. County Board*, supra, at page 267 of 234 Md., page 220 of 199 A.2d.

In the more recent case of *County Commissioners v. Lurie*, 249 Md. 1 (decided February 13, 1956), the Court of Appeals reversed a decision of the Circuit Court for Prince George's County, which Court had in turn reversed the action of the Board of County Commissioners for Prince George's County, Maryland, sitting as the District Council, in refusing to grant a special exception for an automobile filling station. The Court of Appeals concluded that the applicant had not produced sufficient evidence before the District Council to meet the burden of justifying the granting of the special exception requested. The Court did, however, reiterate the general rule and quoted with approval the language of the Court of Appeals in *Crowther, Inc. v. Johnson*, 225 Md. 375, in which the provisions of Section 502.1 of the Baltimore County Zoning Regulations were in issue. The Court stated at page 393 of that opinion as follows:

"The general rule is that in reviewing the action of zoning boards a court will not substitute its judgment for the judgment of the board unless its action is shown to be arbitrary, capricious or illegal. *Dorsey Interiors, Inc. v. Board of Zoning Appeals*, 219 Md. 18, 147 A.2d 933; *Gilmer v. Mayor and City Council*, 205 Md. 457, 109 A.2d 739; *Montgomery Co. v. Maryland Club*, 202 Md. 277, 96 A.2d 251; *Md. Adv. Co. v. Mayor & C. C. of Baltimore*, 198 Md. 214, 86 A.2d 169; *Mayor & C. C. of Baltimore v. Hermann*, 187 Md. 214, 79 A.2d 404. But if the questions involved are fairly debatable and the facts presented are sufficient to support the board's decision it must be upheld. *Dorsey Interiors v. Board of Zoning Appeals*, 212 Md. 188, 128 A.2d 124; *Wakefield v. Board of Zoning Appeals*, 202 Md. 136, 98 A.2d 27. Moreover, conditions upon which a special exception may be granted are set out in the ordinance, and the board is given a wide latitude of discretion in passing upon special exceptions so long as the resulting use is in harmony with the general purpose and intent of the zoning plan and will not adversely affect the use of neighboring properties and the general plan of the neighborhood as provided by the zoning ordinance. *Crowther v. Board of Zoning Appeals*, 204 Md. 397, 104 A.2d 569; *Dorsey Interiors v. Board of Zoning Appeals*, supra; *Gilmer v. Mayor and City Council*, supra; *Montgomery Co. v. Maryland Club*, supra."

The Court, in the instant case, is of the opinion that the Petitioners (the Appellees here) did produce affirmative evidence of a substantial and convincing nature that justified the Board in concluding that the provisions of Section 502.1 would not be violated, but to the contrary, the requirements thereof would be satisfied by the granting of the special exceptions requested. There was certainly supporting evidence upon which a rational judgment could be based that the statutory standards had been met. The Board's decision, having been based upon evidence of this character, should not be disturbed by this Court under its limited power of judicial review of an administrative agency's determination. For the reasons stated and in conformity with the foregoing opinion, it is this 20th day of May, 1958, by the Circuit Court for Baltimore County ORDERED that the Order of the County Board of Appeals of Baltimore County dated August 25, 1957, be and the same is hereby affirmed.

/s/ Walter M. Jenifer
Walter M. Jenifer
JUDGE

WILLIAM STITELY and
YVONNE STITELY
vs.
WILLIAM S. BALDWIN,
W. GILES PARKER and
WALTER A. REITER, JR.,
constituting the
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW
Misc. Docket No. 8
Folio No. 239
File No. 3924

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William S. Baldwin, W. Giles Parker and Walter A. Reiter, Jr., constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

ZONING ENTRIES FROM DOCKET OF ZONING
COMMISSIONER OF BALTIMORE COUNTY

No. 67-85-X
and
No. 67-86-X

Sept. 6, 1956 Petition of Garden Construction Corporation for special exception for elevator apartment building including accessory business use for the convenience of its tenants and as conditioned in Section (402A) 402.4 of the Zoning Regulations on property located on the north side of Security Boulevard 240' northwest of Colonial Road, 1st Dist. - filed

" 6 Petition of Garden Construction Corporation for special exception for elevator apartment building including accessory business use for the convenience of its tenants and as conditioned in Section (402A) 402.4 of the Zoning Regulations on property located on the northeast side of Security Boulevard 240' southeast of Colonial Drive. 1st Dist. - filed

" 6 Order of Zoning Commissioner directing advertisement and posting of both properties - date of hearing set for October 17, 1956 at 11 a.m. on both cases

Oct. 8 Certificates of Publication in newspapers - filed

" 6 Certificates of Posting of properties - filed

" 17 At 11 a.m. hearing held on both petitions by Deputy Zoning Commissioner - case held sub curia

Feb. 6, 1957 Order of Deputy Zoning Commissioner granting special exceptions, subject to restrictions

Mar. 8, 1957 Order of Appeal to County Board of Appeals from Order of Deputy Zoning Commissioner

June 29 Hearing on appeals before County Board of Appeals, cases held sub curia

Aug. 25 Order of County Board of Appeals granting special exceptions, subject to restrictions

Sept. 22 Order for Appeal on both cases filed in the Circuit Court for Baltimore County

" 25 Petition for Appeal filed in the Circuit Court for Baltimore County

" 28 Certificate of Notice sent to all interested parties

Oct. 25 Transcript of Testimony filed

Petitioners' Exhibit No. 1 - (a, b, and c) Traffic Counts dated 6/5/57 by Joseph Thompson of Dogwood Road, Security Boulevard, and Colonial Road

" " 2 - Students per unit from survey of Mr. Grimm, Baltimore County Board of Education

" " 3 - Comparison of prospective student yield - elementary only

" " 4 - Site Plan of Case 67-85-X - west of Colonial Road, 8.5 acres

" " 5 - Site Plan of Case 67-86-X - east of Colonial Road, 5 acres

Protestants' Exhibit "A" - (1 and 2) File 67-85-X and File 67-86-X

Oct. 25 Record of proceedings filed in the Circuit Court for Baltimore County

Record of proceedings pursuant to which said Order was entered and said Order acted are permanent records of the Zoning Department of Baltimore County, as are also the use district maps, and your Respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your Respondents will produce any and all such rules and regulations, together with the zoning use district maps at the hearing on these petitions or whenever directed to do so by this Court.

Respectfully submitted

Edith T. Eisenhart
Edith T. Eisenhart, Secretary
County Board of Appeals of Baltimore County

August 25, 1967

C. Mitchell Austin, Esq.
24 W. Pennsylvania Avenue
Towson, Maryland 21204

Re: Case #67-85-X and Case #67-86-X
Garden Construction Corporation

Dear Mr. Austin:

Enclosed herewith is a copy of the Opinion and Order passed by the County Board of Appeals today in the above entitled cases.

Very truly yours,

Edith T. Eisenhart, Secretary

cc: T. Bayard Williams, Jr., Esq.
Johnson Bowie, Esq.
Mr. Donald Connolly
Mr. Rose
Mr. Gervelle
Mr. Hardesty
Board of Education

PETITION FOR ZONING RECLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY

I, or we, Garden Construction Corporation, legal owner of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition the Zoning Commission of Baltimore County to reclassify the property as RA-1 and to grant a Special Exception for the construction of a six-story apartment building on the property.

See attached description

Section 215.5 of the Zoning Law of Baltimore County, to use the herein described property for Elevator Apartment Building including accessory business uses for the convenience of its tenants and as conditioned in Section (402B) 402.4. Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of the Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

By: Edith T. Eisenhart Legal Owner
Address: 2400 Greenmount Avenue
Baltimore, Maryland 21201

By: T. Bayard Williams, Jr. Petitioner's Attorney
Address: 6732 Lochloosa Avenue
Dundalk, Maryland 21222

ORDERED By The Zoning Commissioner of Baltimore County, this 5th day of September, 1967, 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 had before the Zoning Commissioner of Baltimore County in Room 106 County Office Building in Towson, Baltimore County, on the 17th day of October, 1967, at 11:00 o'clock A.M.

Zoning Commissioner of Baltimore County.

RE: PETITION FOR SPECIAL EXCEPTION :
for Elevator Apartment Building
including accessory business uses for
the convenience of its tenants
N/S Security Blvd. 240' NW of
Colonial Road - and
NE/S Security Blvd. 240' SE of
Colonial Road,
1st District
Garden Construction Corporation,
Petitioner
A.E.T., Inc., Contract Purchaser

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 67-85-X and
No. 67-86-X

OPINION

The petitioner in this case seeks a special exception for elevator apartment buildings on two parcels of ground situated on the north side of Security Boulevard at its intersection with Colonial Road in the First Election District of Baltimore County.

The petitioner, Garden Construction Corporation, filed separate petitions on each parcel. Case #67-85-X involves 8.5 acres of ground on which the petitioner proposes to construct 160 apartment units, and case #67-86-X consists of 5 acres of ground on which the petitioner proposes to construct 95 apartment units. These two cases were consolidated and heard as one case by the Board.

The properties are situated on the north side of Security Boulevard, on both the east and west side of the intersection of Security Boulevard and Colonial Road. The properties are irregular in shape and are rather narrow, lying between Security Boulevard and Dead Run. The land was placed on the western area map in an R-A classification when the map was adopted by the County Council in November of 1962.

The petitioner proposes to erect two mid-rise apartment buildings containing a total of 255 apartments. This would be an increase of 20 apartment units over the allowable 235 apartment units that could be built on the subject properties without any special exception. The petitioner produced affirmative testimony that the special exception for elevator apartment buildings would in no way violate Section 502.1 of the zoning regulations.

JEROME B. WOLFF AND ASSOCIATES
Consulting Engineers
SUITE 402 JEFFERSON BUILDING
TOWSON, MARYLAND

SPECIAL EXCEPTION
PETITION FOR ELEVATOR
APARTMENT USE WITH ACCESSORY
BUSINESSES IN R A ZONE
(WEST OF COLONIAL ROAD)

BEGINNING for the same on the north side of Security Boulevard (120 feet wide) at a point distant 240 feet more or less Northwest from the centerline of Colonial Road, said point being the intersection of the north side of said Boulevard with the prolongation southerly of the third or line curving to the northeast with a radius of 759.00 feet for a distance of 325.24 foot line of the second parcel of land which by deed dated August 15, 1952 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2157 folio 493 etc. was conveyed by The Fidelity Trust Company to Nathan H. Shillman and running thence binding on the north side of said Security Boulevard westerly 30 feet more or less by an arc curving to the left with a radius of 860 feet to the southwest side of Mt. Vernon Drive as shown on the Plat of Colonial Park Estates as filed among the Land Records of Baltimore County in Plat Book No. 2, folio 337 thence leaving the north side of said Boulevard and binding on the southwest side of said Mt. Vernon Drive, northwesterly 255 feet more or less to the division line between lots No. 5 and 6, Block "K" as shown on said Plat, thence leaving the southwest side of said Mt. Vernon Drive and binding on said division line southerly 145 feet more or less

Garden Construction Corp. - Case #67-85-X and Case #67-86-X

The only protestant, a Mrs. Yvonne Sittely whose property adjoins the subject property, testified that she had had flooding on her property; that she objects strenuously to the proposed buildings; and that traffic is heavy on Security Boulevard. The Board does not feel that her fears are well founded. We do not see how an increase of 20 units on 13-1/2 acres of ground could create any traffic congestion, nor do we see how it could in any way violate the other provisions of Section 502.1 of the zoning regulations.

For the reasons given above, the petition for special exception for elevator apartment buildings will be granted subject to site plan approval of the Office of Planning and Zoning, Bureau of Public Services, and the State Roads Commission.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 25th day of August, 1967 by the County Board of Appeals, ORDERED that the special exceptions petitioned for, be and the same are hereby GRANTED, subject to site plan approval of the Office of Planning and Zoning, Bureau of Public Services, and the State Roads Commission.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William S. Baldwin, Chairman

W. Giles Parker

Walter A. Keller, Jr.

to the north side of said Security Boulevard thence binding on the north side of said Boulevard westerly 980 feet more or less by an arc curving to the left with a radius of 3400' to the beginning of the second or North 3 degrees 52 minutes 09 seconds West 150.00 foot line of that tract of land which by deed dated July 1, 1959 and recorded among the Land Records of Baltimore County in Liber W.J.R. No. 3558 folio 272 etc. was conveyed by Charleston Hall, Inc. to Bankers Trust Company et al thence leaving the north side of said Security Boulevard and binding on said second line and on a prolongation thereof northerly 200 feet more or less to intersect the tenth or South 85 degrees 33 minutes 20 seconds West 549.10 foot line of that tract of land which by deed dated August 13, 1962 and recorded among the Land Records of Baltimore County in Liber W.J.R. No. 4035 folio 311, etc. was conveyed by Garden Construction Corporation to the Vestry of the Church of St. Mary The Virgin of Baltimore County thence binding on a part of said tenth line reversely, easterly 375 feet more or less to the beginning thereof, thence binding on the ninth line of said lastly described deed northeasterly 607.76 feet to the beginning thereof, said point being in or near the center of Dead Run thence in the center of said Run easterly and southeasterly 500.00 feet more or less to intersect the third line of the firstly described deed, thence binding on a part of said line reversely and on a prolongation thereof southwesterly 200.00 feet more or less to the place of beginning.

CONTAINING approximately 8.5 acres of land.

Registered Land Surveyor: James R. Park 7/1/67
Not a public record survey James R. Park # 5099

RE: PETITION FOR SPECIAL EXCEPTIONS :
N/Side Security Boulevard 240 feet :
NW of Colonial Road - 1st Dist. & :
NE/Side Security Boulevard 240 :
feet SE of Colonial Drive - 1st Dist. :
Garden Construction Corporation, :
Petitioner :
67-85-X and 67-86-X

BEFORE THE :
DEPUTY ZONING COM- :
MISSIONER OF :
BALTIMORE COUNTY

The Petitioner seeks a Special Exception to use its property for elevator apartment buildings or in other words high rise apartments. The facts and circumstances in both cases are identical so both petitions will be treated as one.

The subject properties consist of two tracts. Tract 1, consisting of 8.5 acres is situated on the N side of Security Boulevard 240 feet NW of Colonial Road. Tract 2, consisting of 5 acres is situated on the NE side of Security Boulevard 240 feet SE of Colonial Drive. Both tracts, owned by the same corporation, are zoned RA by virtue of the zoning map. If the tracts were developed in their present zoning, the Petitioner could construct 235 units. If a Special Exception for high rise apartments is granted, then the Petitioner could construct 255 units.

Plans call for the construction on tract 1 of a six-story elevator apartment building containing 160 units with off-street parking for 285 vehicles. A six-story apartment building consisting of 95 units would be constructed on tract 2 with 109 off-street parking spaces. Projected rentals would run from \$150 to \$190 per month.

Mr. Jerome Wolff, a consulting engineer, who also qualifies as a traffic expert, testified that water and sewer are available and adequate. He further testified that there would be no serious traffic congestion created by the construction of the aforementioned apartment dwellings. He stated that Security Boulevard is four lanes divided by a median strip and further that this major artery could accommodate the traffic to be generated by the apartments. His testimony in essence was that the granting of the Special Exceptions in this matter would not violate Section 502.1 (requirements of Special Exceptions) of the Baltimore County Zoning Regulations.

The neighborhood has steadily undergone a change in character. The Social Security complex, is located on the S side of Security Boulevard just W of the subject tracts. It is generally understood that this complex will in the near future be enlarged. Just to the E on the S side of Security Boulevard near its intersection with Ingleside Avenue another large garden-type apartment complex is currently being constructed.

Most of the protest was based on the fear that the proposed high rise apartments would create traffic congestion on the streets and that children living in the apartments would be forced to attend schools which are already over crowded. There was also some alarm expressed that the proposed apartments would possibly aggravate the flood condition in that area between the rear of the proposed structures and Dogwood Road.

Blakesly Lane
216 - N. Charles
ST.
Photographs
727-8800

With respect to the traffic congestion, Mr. Wolff was of the definite opinion there would be none. As to the possible flooding conditions Mr. Wolff testified that the proposed apartment would in no way create or aggravate a flood condition. As a practical matter, Baltimore County would not issue a building permit or enter into a Public Works Agreement if there was any possibility that a flood condition would be created. With respect to the over crowding of schools, experience teaches that there are very few children of school age in high rise apartments.

The Deputy Zoning Commissioner received the impression that the aggrieved neighbors are treating this case as a reclassification instead of a Special Exception. These tracts are already zoned for garden-type apartments and there is nothing to prevent the Petitioner from developing them as such. As a matter of fact, there would probably be more children in garden-type apartments than in the proposed high rise.

In conclusion the Deputy Zoning Commissioner feels that the Petitioner has met the burden of proof in complying with the requirements of Section 502.1 of the Baltimore County Zoning Regulations, and is of the opinion that the Petitions for Special Exceptions for elevator apartment buildings should be granted.

For the foregoing reasons, IT IS ORDERED by the Deputy Zoning Commissioner that the Special Exception for elevator apartment buildings should be and the same is granted from and after the date of this subject to the following:

1. No part of the proposed buildings shall be used for commercial purposes.
2. All traffic ingress and egress restricted to and by way of Security Boulevard.
3. The site plans shall be subject to the approval of the Office of Planning and Zoning, Bureau of Public Services and the State Roads Commission.

Edward D. Hardesty
EDWARD D. HARDESTY,
Deputy Zoning Commissioner

PETITION FOR SPECIAL EXCEPTION
for Elevator Apartment Buildings,
including necessary business uses
for the convenience of its tenants
N/S Security Blvd., 240' SE of
Colonial Road,
1st District of Baltimore County
Garden Construction Corporation,
Petitioner,
A.E.T., Inc., Contract Purchaser

WILLIAM STITELY
YVONNE STITELY
(Protestants)

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW
Miscellaneous Docket 8
Folio 236
Case No. 3374

GARDEN CONSTRUCTION CO.
#67-85-X AND #67-86-X

MEMORANDUM OPINION
AND ORDER OF COURT

This case involves an appeal from the County Board of Appeals of Baltimore County (hereinafter referred to as the "Board") which by its Order dated August 25, 1967, granted special exceptions under the provisions of Section 215.5 of the Baltimore County Zoning Regulations for elevator apartment buildings on the two parcels of ground described in this proceeding. The special exceptions were granted "subject to site plan approval of the Office of Planning and Zoning, Bureau of Public Services, and the State Roads Commission". The Deputy Zoning Commissioner of Baltimore County, by his Order dated February 6, 1967, had likewise approved the Petition for the special exceptions requested.

There are two parcels of ground involved. The first parcel is described in Petition No. 67-85-X containing approximately 0.5 acres of land situate on the northerly side of Security Boulevard, 240 feet northwest of Colonial Drive. The second parcel is described in Petition No. 67-86-X containing approximately 5 acres of land situate on the northeasterly side of

and there was evidence of a substantial nature to justify the Board's finding in granting the special exceptions requested.

The Appellants produced before the Board the testimony of several witnesses, including that of experts. The first witness called on behalf of the Appellants was Joseph D. Thompson, a registered engineer whose qualifications as a traffic study expert were admitted. He testified that a traffic count was made on June 5, 1967, between the hours of 7:00 a.m. to 7:00 p.m. on Security Boulevard, Colonial Drive and Dogwood Road, the last mentioned roadway being situate northeast of the subject properties and intersecting Colonial Drive at a point approximately 400 feet northwest of Security Boulevard. He stated that the "practical capacity" of Security Boulevard was 2400 vehicles per hour for each of the four west bound and east bound traffic lanes. He further testified that the traffic count revealed that the greatest density on Security Boulevard for west bound movement was between 7:00 a.m. and 8:00 a.m. or a total of 1230 vehicles per hour and that the average west bound traffic count amounted to 255 vehicles per hour. The peak period for east bound traffic on Security Boulevard was found to be between the hours of 4:00 p.m. and 5:00 p.m., and the traffic count revealed a total of 592 vehicles for this one hour period, and an average of 320 vehicles per hour for the entire day. He concluded that the present west bound traffic load is approximately 50% of capacity, and the east bound load is slightly less than 50% of capacity. He further stated that, in his opinion, the additional 20 units permitted under the special exception for elevator apartments would have no adverse effect on traffic on Security Boulevard, Dogwood Road or Colonial Drive (Tr. p. 10). He admitted on cross-examination that the additional apartment units, being an increase of approximately 8%, would "minutely" increase traffic on Security Boulevard. He further admitted

Security Boulevard, 240 feet southeast of Colonial Drive. Both parcels are irregular in shape and lie between Security Boulevard and a stream known as Dead Run. Both tracts are located in the First Election District of Baltimore County and were placed in a R.A. (Residence, Apartments) zoning classification by virtue of the Western Area Comprehensive Zoning Map adopted by the County Council in November of 1962. The Petitioners, in both Petitions, are Garden Construction Corporation, legal owner, and A.E.T., Inc., contract purchaser. The Appellants here (the protestants below) are William Stitely and Yvonne Stitely, his wife, owners of the premises known as No. 1025 Colonial Drive, which is situate on the southwest side of Colonial Drive and the northerly side of Dead Run between the two parcels of land in question.

There is planned to be erected on the 0.5 acre parcel a mid-rise six-story apartment building consisting of 160 units and on the 5 acre parcel a similar mid-rise six-story apartment building consisting of 95 units. The total number of apartment units proposed is 255, an increase of 20 units over the 235 apartments permitted on the subject properties under the existing zoning without any special exception.

Security Boulevard, at the location of the subject properties, was considered to run generally in an easterly and westerly direction. It is a dual boulevard on a 120 foot right of way. There are 3 lanes for west bound traffic, and 3 lanes for east bound traffic, each on 32 feet of paving. There is a traffic control signal at the intersection of Security Boulevard and Colonial Drive as well as at the intersection of said boulevard and Ingleside Avenue, the last named intersection being approximately 1300 feet southeast of the 5 acre parcel. The only means of vehicular access to both parcels is by means of Security Boulevard. There is no means of ingress and egress to either parcel

that the "U" turn traffic pattern heretofore described at Colonial Drive and Ingleside Avenue would result in a backing up or stalling of traffic in the deceleration lanes on Security Boulevard and "should not be encouraged". He further stated, however, that such traffic pattern would exist under the existing zoning without the special exception, and the granting of such special exception would have only a "negligible" effect. There was some attempt made by counsel for the Protestants to develop through the cross-examination of the witness the probability of the expansion of the Social Security facility located on Security Boulevard approximately 3/4 of a mile distant from the subject properties. The testimony in this regard was nebulous in its nature, bordered on the conjectural and was of little or no probative value.

The second witness called on behalf of the Appellants was Preston L. Crimm, Director of Capital Program Planning for the Board of Education of Baltimore County. His testimony was based on studies made in apartment complexes and a comparison of the students produced in garden type apartment development with high-rise apartment development. It was his opinion that garden type apartments yield a total of 37.6 students per 100 garden type units whereas high-rise apartments yield 7.3 students per 100 units. From the testimony of this witness, it can be concluded that the development of the subject properties as mid-rise apartments would have a tendency to decrease rather than increase the public school population.

The third witness produced by the Appellants was Irvin Greenberg, an investment realtor and President of A.E.T., Inc., the contract purchaser. This witness described the number of units of apartment dwellings proposed for each parcel of land under consideration and the type of construction to be utilized. It was the opinion of this witness that if permission were granted to construct mid-rise six-story apartment buildings, the construction would be

from Colonial Drive. There is no difficulty presented for traffic west bound on Security Boulevard being afforded access to both proposed apartment complexes. In order for east bound traffic on Security Boulevard to have access to the 0.5 acre parcel, it is necessary that these vehicles make a "U" turn at the intersection of Security Boulevard and Colonial Drive and then proceed in a westerly direction for a distance of approximately 700 feet. In order to provide access for east bound traffic on Security Boulevard to the 5 acre parcel, it is necessary that such vehicles proceed easterly to Ingleside Avenue, make a "U" turn at that intersection and then proceed westerly for a distance of 2200 feet. There are no existence deceleration lanes for both east and west bound traffic on Security Boulevard at its intersection with both Colonial Drive and Ingleside Avenue.

The Baltimore County Zoning Enabling Act, known as Bill No. 80 and which became effective July 25, 1960, is now codified as Title 23 of the 1966 Cumulative Supplement to the Baltimore County Code. Section 23-23 of this Act deals with the authority of the Zoning Commissioner to provide for special exceptions and variances and reads as follows:

"Subject to the appropriate principles, standards, rules, conditions and safeguards as set forth in the zoning regulations, the zoning commissioner may grant variances from area and height regulations and may make special exceptions to the zoning regulations in harmony with their general purpose and intent provided that the issuance of all such special exceptions and variances shall be subject to appropriate principles, standards, rules, conditions and safeguards set forth in the zoning regulations, and that all decisions of the zoning commissioner with respect to such matters shall be subject to appeal to the board of appeals as provided in this article. (Bill No. 80, 1960)."

Section 502 of the Baltimore County Zoning Regulations is a statement of legislative policy with respect to special exceptions and provides as follows:

of a higher quality and there would be less disruption to the land in question and after construction, it would remain more attractive than if development was limited to the garden type apartment complex.

The fourth witness produced by the Appellants was Thomas Jovell, an architect who had been consulted by the contract purchaser in a general way regarding this project. He described briefly the proposed construction for the two apartment buildings but stated that no structural plans had been prepared.

The final witness for the Appellants was James Petric, whose qualifications as an engineer in the fields of water supply, sewerage and storm drainage were admitted. He testified that there was adequate water supply and sanitary sewer available to serve the apartment buildings. He further testified that the proposed development of the two properties for elevator apartments would not enlarge the flood control area along the stream known as Dead Run and that no problem existed as far as storm water run off from the apartment complexes. He also testified that certain of the other standards set forth in 502.1 of the Baltimore County Zoning Regulations would be satisfied.

The only witness produced on behalf of the Protestants was the Appellant, Mrs. Yvonne Stitely. This witness was principally concerned with 4 factors: (1) traffic congestion on Security Boulevard and Colonial Drive; (2) the possibility of increased flooding of the residential property owned by her and her husband; (3) the invasion of the privacy of her home by reason of the apartment construction; and (4) depreciation in the value of their property. With respect to the traffic congestion, she testified as to the present difficulty in making a left turn from the east bound lane of Security Boulevard into Colonial Drive and across the west bound lane at peak hours of traffic in the

ORDER RECEIVED FOR FILING

DATE 9/6/67

BY J. E. Hardesty

See also Rahda v. County Board, *supra*, at page 267 of 234 Md., page 220 of 199 A.2d."

"The general rule is that in reviewing the action of zoning boards a court will not substitute its judgment for the judgment of the board unless the action is shown to be arbitrary, capricious or illegal. Board of Zoning Adjustment v. City of St. Louis, 350 U.S. 91, 100, 16 S. Ct. 478, 100 A.2d 316, 100 A.2d 318, 100 A.2d 319, 100 A.2d 320, 100 A.2d 321, 100 A.2d 322, 100 A.2d 323, 100 A.2d 324, 100 A.2d 325, 100 A.2d 326, 100 A.2d 327, 100 A.2d 328, 100 A.2d 329, 100 A.2d 330, 100 A.2d 331, 100 A.2d 332, 100 A.2d 333, 100 A.2d 334, 100 A.2d 335, 100 A.2d 336, 100 A.2d 337, 100 A.2d 338, 100 A.2d 339, 100 A.2d 340, 100 A.2d 341, 100 A.2d 342, 100 A.2d 343, 100 A.2d 344, 100 A.2d 345, 100 A.2d 346, 100 A.2d 347, 100 A.2d 348, 100 A.2d 349, 100 A.2d 350, 100 A.2d 351, 100 A.2d 352, 100 A.2d 353, 100 A.2d 354, 100 A.2d 355, 100 A.2d 356, 100 A.2d 357, 100 A.2d 358, 100 A.2d 359, 100 A.2d 360, 100 A.2d 361, 100 A.2d 362, 100 A.2d 363, 100 A.2d 364, 100 A.2d 365, 100 A.2d 366, 100 A.2d 367, 100 A.2d 368, 100 A.2d 369, 100 A.2d 370, 100 A.2d 371, 100 A.2d 372, 100 A.2d 373, 100 A.2d 374, 100 A.2d 375, 100 A.2d 376, 100 A.2d 377, 100 A.2d 378, 100 A.2d 379, 100 A.2d 380, 100 A.2d 381, 100 A.2d 382, 100 A.2d 383, 100 A.2d 384, 100 A.2d 385, 100 A.2d 386, 100 A.2d 387, 100 A.2d 388, 100 A.2d 389, 100 A.2d 390, 100 A.2d 391, 100 A.2d 392, 100 A.2d 393, 100 A.2d 394, 100 A.2d 395, 100 A.2d 396, 100 A.2d 397, 100 A.2d 398, 100 A.2d 399, 100 A.2d 400, 100 A.2d 401, 100 A.2d 402, 100 A.2d 403, 100 A.2d 404, 100 A.2d 405, 100 A.2d 406, 100 A.2d 407, 100 A.2d 408, 100 A.2d 409, 100 A.2d 410, 100 A.2d 411, 100 A.2d 412, 100 A.2d 413, 100 A.2d 414, 100 A.2d 415, 100 A.2d 416, 100 A.2d 417, 100 A.2d 418, 100 A.2d 419, 100 A.2d 420, 100 A.2d 421, 100 A.2d 422, 100 A.2d 423, 100 A.2d 424, 100 A.2d 425, 100 A.2d 426, 100 A.2d 427, 100 A.2d 428, 100 A.2d 429, 100 A.2d 430, 100 A.2d 431, 100 A.2d 432, 100 A.2d 433, 100 A.2d 434, 100 A.2d 435, 100 A.2d 436, 100 A.2d 437, 100 A.2d 438, 100 A.2d 439, 100 A.2d 440, 100 A.2d 441, 100 A.2d 442, 100 A.2d 443, 100 A.2d 444, 100 A.2d 445, 100 A.2d 446, 100 A.2d 447, 100 A.2d 448, 100 A.2d 449, 100 A.2d 450, 100 A.2d 451, 100 A.2d 452, 100 A.2d 453, 100 A.2d 454, 100 A.2d 455, 100 A.2d 456, 100 A.2d 457, 100 A.2d 458, 100 A.2d 459, 100 A.2d 460, 100 A.2d 461, 100 A.2d 462, 100 A.2d 463, 100 A.2d 464, 100 A.2d 465, 100 A.2d 466, 100 A.2d 467, 100 A.2d 468, 100 A.2d 469, 100 A.2d 470, 100 A.2d 471, 100 A.2d 472, 100 A.2d 473, 100 A.2d 474, 100 A.2d 475, 100 A.2d 476, 100 A.2d 477, 100 A.2d 478, 100 A.2d 479, 100 A.2d 480, 100 A.2d 481, 100 A.2d 482, 100 A.2d 483, 100 A.2d 484, 100 A.2d 485, 100 A.2d 486, 100 A.2d 487, 100 A.2d 488, 100 A.2d 489, 100 A.2d 490, 100 A.2d 491, 100 A.2d 492, 100 A.2d 493, 100 A.2d 494, 100 A.2d 495, 100 A.2d 496, 100 A.2d 497, 100 A.2d 498, 100 A.2d 499, 100 A.2d 500, 100 A.2d 501, 100 A.2d 502, 100 A.2d 503, 100 A.2d 504, 100 A.2d 505, 100 A.2d 506, 100 A.2d 507, 100 A.2d 508, 100 A.2d 509, 100 A.2d 510, 100 A.2d 511, 100 A.2d 512, 100 A.2d 513, 100 A.2d 514, 100 A.2d 515, 100 A.2d 516, 100 A.2d 517, 100 A.2d 518, 100 A.2d 519, 100 A.2d 520, 100 A.2d 521, 100 A.2d 522, 100 A.2d 523, 100 A.2d 524, 100 A.2d 525, 100 A.2d 526, 100 A.2d 527, 100 A.2d 528, 100 A.2d 529, 100 A.2d 530, 100 A.2d 531, 100 A.2d 532, 100 A.2d 533, 100 A.2d 534, 100 A.2d 535, 100 A.2d 536, 100 A.2d 537, 100 A.2d 538, 100 A.2d 539, 100 A.2d 540, 100 A.2d 541, 100 A.2d 542, 100 A.2d 543, 100 A.2d 544, 100 A.2d 545, 100 A.2d 546, 100 A.2d 547, 100 A.2d 548, 100 A.2d 549, 100 A.2d 550, 100 A.2d 551, 100 A.2d 552, 100 A.2d 553, 100 A.2d 554, 100 A.2d 555, 100 A.2d 556, 100 A.2d 557, 100 A.2d 558, 100 A.2d 559, 100 A.2d 560, 100 A.2d 561, 100 A.2d 562, 100 A.2d 563, 100 A.2d 564, 100 A.2d 565, 100 A.2d 566, 100 A.2d 567, 100 A.2d 568, 100 A.2d 569, 100 A.2d 570, 100 A.2d 571, 100 A.2d 572, 100 A.2d 573, 100 A.2d 574, 100 A.2d 575, 100 A.2d 576, 100 A.2d 577, 100 A.2d 578, 100 A.2d 579, 100 A.2d 580, 100 A.2d 581, 100 A.2d 582, 100 A.2d 583, 100 A.2d 584, 100 A.2d 585, 100 A.2d 586, 100 A.2d 587, 100 A.2d 588, 100 A.2d 589, 100 A.2d 590, 100 A.2d 591, 100 A.2d 592, 100 A.2d 593, 100 A.2d 594, 100 A.2d 595, 100 A.2d 596, 100 A.2d 597, 100 A.2d 598, 100 A.2d 599, 100 A.2d 600, 100 A.2d 601, 100 A.2d 602, 100 A.2d 603, 100 A.2d 604, 100 A.2d 605, 100 A.2d 606, 100 A.2d 607, 100 A.2d 608, 100 A.2d 609, 100 A.2d 610, 100 A.2d 611, 100 A.2d 612, 100 A.2d 613, 100 A.2d 614, 100 A.2d 615, 100 A.2d 616, 100 A.2d 617, 100 A.2d 618, 100 A.2d 619, 100 A.2d 620, 100 A.2d 621, 100 A.2d 622, 100 A.2d 623, 100 A.2d 624, 100

For the reasons stated and in conformity with the foregoing opinion, it is this 20th day of May, 1968, by the Circuit Court for Baltimore County ORDERED that the Order of the County Board of Appeals of Baltimore County dated August 25, 1967, be and the same is hereby affirmed.

/s/ Walter M. Jenifer
Walter M. Jenifer
JUDGE

WILLIAM STITELY and
YVONNE STITELY
vs.
WILLIAM S. BALDWIN,
W. GILES PARKER, and
WALTER A. REITER, JR.,
constituting the BOARD OF
APPEALS OF BALTIMORE COUNTY

MOTION AND ANSWER OF GORDEN CONSTRUCTION CORPORATION AND A. E. L., INC., TO PETITION FOR APPEAL

WHEREFORE, having fully answered said petition, Garden Construction Corporation and A. E. T., Inc., move that the petition for appeal be dismissed.

Rec'd 9-27-6
9 20 PM

with costs.

And for such other and further relief as the nature of the case may require.

TH. J. J.

T. Bayard Williams, Jr.

John Bowie
Joannson Bowie
Attorneys for Garden Construc-
tion Corporation and A. E. T., Inc.
22 West Pennsylvania Avenue
Towson, Maryland 21204
Phone: 825-6014

I HEREBY CERTIFY that on the 20 day of Sept, 1967,
copy of the foregoing was mailed to the Board of Appeals of Baltimore
County, County Office Building, Towson, Maryland 21204, and G. Mitchell
Austin, Esq., 24 W. Penna. Ave., Towson, Md. 21204, Atty. for Petitioners.

Johnson Bowie

JOHNSON BOWIE
ATTORNEY AT LAW
TOWSON, MD. 21204

RE: PETITION FOR SPECIAL EXEMPTION : BEFORE
for Elevator Apartment Buildings :
including accessory business uses : COUNTY BOARD OF APPEALS
for the convenience of its tenants :
N/S Security Blvd., 240' NW of : OF
Colonial Road - and :
NE/S Security Blvd., 240' SE of : BALTIMORE COUNTY
Colonial Road :
1st District :
Gordon Construction Corporation, :
Petitioner : No. 67-85-X and
A.E.T., Inc., Contract Purchaser : No. 67-86-X

OPINION

The petitioner in this case seeks a special exception for elevator apartment buildings on two parcels of ground situated on the north side of Security Boulevard at its intersection with Colonial Road in the First Election District of Baltimore County.

The petitioner, Garden Construction Corporation, filed separate petitions on each parcel. Case #67-85-X involves 8.5 acres of ground on which the petitioner proposes to construct 160 apartment units, and case #67-86-X consists of 5 acres of ground on which the petitioner proposes to construct 95 apartment units. These two cases were consolidated and heard as one case - by the Board.

The properties are situated on the north side of Security Boulevard, on both the east and west side of the intersection of Security Boulevard and Colonial Road. The properties are irregular in shape and are rather narrow, lying between Security Boulevard and Dead Run. The land was placed on the western area map in an R-A classification when the map was adopted by the County Council in November of 1962.

The petitioner proposes to erect two mid-rise apartment buildings containing a total of 255 apartments. This would be an increase of 20 apartment units over the allowable 235 apartment units that could be built on the subject properties without any special exception. The petitioner produced affirmative testimony that the special exception for elevator apartment buildings would in no way violate Section 502.1 of the zoning regulations.

Garden Construction Corp. - Case #67-85-X and Case #67-86-X

The only protestant, a Mrs. Yvonne Silely whose property adjoins the subject property, testified that she had had flooding on her property; that she objects strenuously to the proposed buildings; and that traffic is heavy on Security Boulevard. The Board does not feel that her fears are well founded. We do not see how an increase of 20 units on 13-1/2 acres of ground could create any traffic congestion, nor do we see how it could in any way violate the other provisions of Section 502.1 of the zoning regulations.

For the reasons given above, the petition for special exception for elevator apartment buildings will be granted subject to site plan approval of the Office of Planning and Zoning, Bureau of Public Services, and the State Roads Commission.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 25th day of August, 1967 by the County Board of Appeals, ORDERED that the special exceptions petitioned for, be and the same are hereby GRANTED, subject to site plan approval of the Office of Planning and Zoning, Bureau of Public Services, and the State Roads Commission

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William S. Baldwin, Chairman

White Park

Walter A. Keller, Jr.

PETITION FOR SPECIAL
 EXCEPTIONS
 N/Side Security Boulevard 240 feet
 NW of Colonial Road - 1st Dist.
 NE/Side Security Boulevard 240
 feet SE of Colonial Drive - 1st Dist.
 Garden Construction Corporation.
 Petitioner

BEFORE THE
 DEPT. OF ZONING COM-
 MISSIONER OF
 BALTIMORE COUNTY

The Petitioner seeks a Special Exception to use its property for elevator apartment buildings or in other words high rise apartments. The facts and circumstances in both cases are identical so both Petitions will be treated as one.

The subject properties consist of two tracts. Tract 1, consisting of 8.5 acres is situated on the N side of Security Boulevard 240 feet NW of Colonial Road. Tract 2, consisting of 5 acres is situated on the S side of Security Boulevard 240 feet SE of Colonial Drive. Both tracts by the same corporation, are zoned RA by virtue of the zoning map. If the tracts were developed in their present zoning, the Petitioner could construct 40 units. If a Special Exception for high rise apartments is granted, then the Petitioner could construct 255 units.

Plans call for the construction on tract 1 of a six-story elevator apartment building containing 160 units with off-street parking for 389 vehicles. A six-story apartment building consisting of 95 units would be constructed on tract 2 with 109 off-street parking spaces. Projected rentals would run from \$150 to \$190 per month.

Mr. Jerome Wolff, a consulting engineer, who also qualifies as a traffic expert, testified that water and sewer are available and adequate. He further testified that there would be no serious traffic congestion created by the construction of the aforementioned apartment dwellings. He stated that Security Boulevard is four lanes divided by a median strip and further apartments. His testimony in essence was that the granting of the Special Exceptions in this matter would not violate Section 502.1 (requirements of Special Exceptions) of the Baltimore County Zoning Regulations.

The neighborhood has steadily undergone a change in character. The Social Security complex, is located on the S side of Security Boulevard just W of the subject tracts. It is generally understood that this complex will in the near future be enlarged. Just to the E on the S side of Security Boulevard near its inter-section with Ingleside Avenue another large garden-type apartment complex is currently being constructed.

Most of the protest was based on the fear that the proposed high rise apartments would create traffic congestion on the streets and that children living in the apartments would be forced to attend schools which are already over crowded. There was also some alarm expressed that the proposed apartments would possibly aggravate the flood condition of that area between the rear of the proposed structures and Dogwood Road.

ORDER RECORDED & INDEXED

DATE 2/6/67

BY *Edward D. Hardesty*

With respect to the traffic congestion, Mr. Wolff was of the definite opinion there would be none. As to the possible flooding conditions, Mr. Wolff testified that the proposed apartments would in no way create or aggravate a flood condition. As a practical matter, Baltimore County would not issue a building permit or enter into a Public Works Agreement if there was any possibility that a flood condition would be created. With respect to the over crowding of schools, experience teaches that there are very few children of school age in high rise apartments.

The Deputy Zoning Commissioner received the impression that the aggrieved neighbors are treating this case as a reclassification instead of a Special Exception. These tracts are already zoned for garden-type apartments and there is nothing to prevent the Petitioner from developing them as such. As a matter of fact there would probably be more children in garden-type apartments than in the proposed high rise.

In conclusion the Deputy Zoning Commissioner feels that the Petitioner has met the burden of proof in complying with the requirements of Section 502.1 of the Baltimore County Zoning Regulations, and is of the opinion that the Petitions for Special Exceptions for elevator apartment buildings should be granted.

For the foregoing reasons, IT IS ORDERED by the Deputy Zoning Commissioner that the Special Exception for elevator apartment buildings should be and the same is granted from and after the date of this Order, subject to the following:

1. No part of the proposed buildings shall be used for commercial purposes;
2. All traffic ingress and egress restricted to and by way of Security Boulevard;
3. The site plans shall be subject to the approval of the Office of Planning and Zoning, Bureau of Public Services and the State Roads Commission.

Edward D. Hardesty
EDWARD D. HARDESTY,
Deputy Zoning Commissioner

Date: February 6, 1967

WILLIAM STITELY and
YVONNE STITELY
vs.
WILLIAM S. BALDWIN,
W. GILES PARKER, and
WALTER A. REITER, JR.,
constituting the BOARD OF APPEALS
OF BALTIMORE COUNTY

Misc. Docket 8
Folio 239
Case No. 2834
3824

Zoning File # 67-26-X
and # 67-25-X

MOTION TO DISMISS APPEAL

The motion of Garden Construction Company, Petitioner, and A. E. T., Inc., contract purchaser, by T. Bayard Williams, Jr. and Johnson Bowie, their attorneys, say:

1. That the Circuit Court for Baltimore County, by its order dated May 20, 1968, affirmed the order of the County Board of Appeals in the above-entitled matter.
2. That an appeal was duly filed by the Plaintiffs, William Stitley and Yvonne Stitley.
3. That said Plaintiffs filed a Petition to extend the time for transmitting records in this Court for sixty (60) days from July 17, 1968, and that said Petition was granted by order of the Court dated July 17, 1968.
4. That the Plaintiffs have not paid for the record as required by Rule 813 of the Maryland Rules of Procedure within the time required for transmitting the record on appeal.

WHEREFORE, it is moved, in accordance with Rule 813 of the Maryland Rules of Procedure;

1. That this Court strike out the order for appeal;
2. That the appeal be dismissed and the judgment of this Court be declared final.

WILLIAM STITELY and
YVONNE STITELY
vs.
WILLIAM S. BALDWIN,
W. GILES PARKER, and
WALTER A. REITER, JR.,
constituting the BOARD OF APPEALS
OF BALTIMORE COUNTY

Misc. Docket 8
Folio 239
Case No. 2834
3824

Zoning File # 67-26-X
and # 67-25-X

MOTION TO DISMISS APPEAL

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1. That the Circuit Court for Baltimore County, by its order dated May 20, 1968, affirmed the order of the County Board of Appeals in the above-entitled matter.
2. That an appeal was duly filed by the Plaintiffs, William Stitley and Yvonne Stitley.
3. That said Plaintiffs filed a Petition to extend the time for transmitting records in this Court for sixty (60) days from July 17, 1968, and that said Petition was granted by order of the Court dated July 17, 1968.
4. That the Plaintiffs have not paid for the record as required by Rule 813 of the Maryland Rules of Procedure within the time required for transmitting the record on appeal.

WHEREFORE, it is moved, in accordance with Rule 813 of the Maryland Rules of Procedure;

1. That this Court strike out the order for appeal;
2. That the appeal be dismissed and the judgment of this Court be declared final.

Approved as to matters shown by record:

Clerk
Circuit Court for Baltimore County

WILLIAM STITELY and
YVONNE STITELY
vs.
WILLIAM S. BALDWIN,
W. GILES PARKER, and
WALTER A. REITER, JR.,
constituting the BOARD OF APPEALS
OF BALTIMORE COUNTY

Misc. Docket 8
Folio 239
Case No. 2834

ORDER

Upon the foregoing Motion to Dismiss Appeal, it is, hereby ORDERED this 8th day of November, 1968, by the Circuit Court for Baltimore County, that the above-entitled appeal by and is hereby stricken out and dismissed.

John L. Barnett
JUDGE

I HEREBY CERTIFY this 8th day of November, 1968 that a copy of the foregoing Motion and Order was mailed to G. Mitchell Austin, 200 Padonia Road East, Cockeysville, Maryland 21030, Attorney for Plaintiffs.

JOHNSON BOWIE
Attorney for Movant

WILLIAM STITELY and
YVONNE STITELY
vs.
WILLIAM S. BALDWIN,
W. GILES PARKER, and
WALTER A. REITER, JR.,
constituting the BOARD OF APPEALS
OF BALTIMORE COUNTY

Misc. Docket 8
Folio 239
Case No. 2834

ORDER

Upon the foregoing Motion to Dismiss Appeal, it is hereby ORDERED this 8th day of November, 1968, by the Circuit Court for Baltimore County, that the above-entitled appeal by and is hereby stricken out and dismissed.

John L. Barnett
JUDGE

I HEREBY CERTIFY this 8th day of November, 1968 that a copy of the foregoing Motion and Order was mailed to G. Mitchell Austin, 200 Padonia Road East, Cockeysville, Maryland 21030, Attorney for Plaintiffs.

JOHNSON BOWIE
Attorney for Movant

WILLIAM STITELY and
YVONNE STITELY
vs.
WILLIAM S. BALDWIN,
W. GILES PARKER, and
WALTER A. REITER, JR.,
constituting the
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Misc. Docket No. 8
Folio No. 239
File No. 3824

ANSWER TO ORDER OF APPEAL TO CIRCUIT COURT FOR BALTIMORE COUNTY AND CERTIFIED COPIES OF PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND BOARD OF APPEALS OF BALTIMORE COUNTY

MR. CLERK:

Please file, & C.

Edith T. Elmhurst, Secretary
County Board of Appeals of Baltimore County

Rec'd 11/14/68
9:30 a.m.

WILLIAM STITELY and
YVONNE STITELY
vs.
WILLIAM S. BALDWIN,
W. GILES PARKER and
WALTER A. REITER, JR.,
constituting the
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW
Misc. Docket No. 8
File No. 239
File No. 3824

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William S. Baldwin, W. Giles Parker and Walter A. Reiter, Jr., constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

ZONING ENTRIES FROM DOCKET OF ZONING
COMMISSIONER OF BALTIMORE COUNTY

No. 67-85-X
and
No. 67-86-X
Sept. 6, 1966 Petition of Garden Construction Corporation for special exception for elevator apartment building including accessory business uses for the convenience of its tenants and as conditioned in Section (402A) 402.4 of the Zoning Regulations on property located on the north side of Security Boulevard 340' northwest of Colonial Road, 1st Dist. - filed
" 6 Petition of Garden Construction Corporation for special exception for elevator apartment building including accessory business uses for the convenience of its tenants and as conditioned in Section (402A) 402.4 of the Zoning Regulations on property located on the northwest side of Security Boulevard 240' southeast of Colonial Drive, 1st Dist. - filed
" 6 Order of Zoning Commissioner directing advertisement and posting of both properties - date of hearing set for October 17, 1966 at 11 a.m. on both cases
Oct. 8 Certificate of Publication in newspapers - filed
" 6 Certificate of Posting of properties - filed
" 17 At 11 a.m. hearing held on both petitions by Deputy Zoning Commissioner - case held sub curia
Feb. 6, 1967 Order of Deputy Zoning Commissioner granting special exceptions, subject to restrictions

Mar. 8, 1967 Order of Appeal to County Board of Appeals from Order of Deputy Zoning Commissioner
June 29 Hearing on appeals before County Board of Appeals, cases held sub curia
Aug. 25 Order of County Board of Appeals granting special exceptions, subject to restrictions
Sept. 22 Order for Appeal on both cases filed in the Circuit Court for Baltimore County
" 25 Petition for Appeal filed in the Circuit Court for Baltimore County
" 26 Certificate of Notice sent to all interested parties
Oct. 25 Transcript of Testimony filed
Petitioners' Exhibit No. 1 - (a, b, and c) Traffic Counts dated 6/5/67 by Joseph Thompson of Dagwood Road, Security Boulevard, and Colonial Road
" " " 2 - Students per unit from survey of Mr. Orin, Baltimore County Board of Education
" " " 3 - Comparison of prospective student yield - elementary only
" " " 4 - Site Plan of Case #67-85-X - west of Colonial Road, 8.5 acres
" " " 5 - Site Plan of Case #67-86-X - east of Colonial Road, 5 acres
Protestants' Exhibit "A" - (1 and 2) File #67-85-X and File #67-86-X
Oct. 25 Record of proceedings filed in the Circuit Court for Baltimore County
Record of proceedings pursuant to which said Order was entered and said Board acted are permanent records of the Zoning Department of Baltimore County, and are also the use district maps, and your Respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your Respondents will produce any and all such rules and regulations, together with the zoning use district maps of the hearing on these petitions or whenever directed to do so by this Court.
Respectfully submitted
Edith T. Eisenhart, Secretary
County Board of Appeals of Baltimore County

Appealed 9/25/67 - Garlen Construction Corp. - File #67-85-X & 67-86-X

cc: Solicitor
Zoning
Perkins

WILLIAM STITELY and
YVONNE STITELY
vs.
WILLIAM S. BALDWIN,
W. GILES PARKER and
WALTER A. REITER, JR.,
constituting the
BOARD OF APPEALS
OF BALTIMORE COUNTY

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW
Misc. Docket No. 8
File No. 239
File No. 3824

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule 11C1-8(4) of the Maryland Rules of Procedure, William S. Baldwin, W. Giles Parker and Walter A. Reiter, Jr., constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, T. Bayard Williams, Jr., Esq., 6722 Holabird Avenue, Dundalk, Maryland, 21222, and Johnson Bowie, Esq., Loyola Federal Building, Towson, Maryland, 21204, Attorneys for the Petitioner, and G. Mitchell Austin, Esq., 24 West Pennsylvania Avenue, Towson, Maryland, 21204, Attorney for the Protestants, a copy of which notice is attached hereto and prayed that it may be made a part thereof.

Muriel E. Buddemeier
County Board of Appeals of Baltimore County
County Office Building, Towson, Md. 21204
VAlley 3-3000, Ext. 770

I hereby certify that a copy of the foregoing Certificate of Notice has been mailed to T. Bayard Williams, Jr., Esq., 6722 Holabird Avenue, Dundalk, Maryland, 21222, and Johnson Bowie, Esq., Loyola Federal Building, Towson, Maryland,

Stitely, William - 2 -

21204, Attorneys for the Petitioner, and G. Mitchell Austin, Esq., 24 West Pennsylvania Avenue, Towson, Maryland, 21204, Attorney for the Protestants, on this 28th day of September, 1967.

Muriel E. Buddemeier
County Board of Appeals of Baltimore County

PETITION FOR ZONING RECLASSIFICATION
AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY
Corporation

I, or we, Garden Construction Corporation, 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 the Zoning Commissioner of Baltimore County for a special exception to the Zoning Law of Baltimore County.

See attached description

Section 215.5 of the Zoning Law of Baltimore County, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for Elevator Apartment Building including accessory business uses for the convenience of its tenants and as conditioned in Section (402A) 402.4. Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above mentioned special exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

A.B.T., INC.
By: [Signature] Contract Purchase
Address: One Charles Center
Baltimore, Maryland 21201
GARDEN CONSTRUCTION CORPORATION
By: [Signature] Legal Owner
Address: 2430 Greenmount Avenue
Baltimore, Maryland 21218
Petitioner's Attorney
T. Bayard Williams, Jr.
6722 Holabird Avenue
Dundalk, Maryland 21222
Protestant's Attorney
G. Mitchell Austin
2415 Old Branch Rd.
Dundalk, Maryland 21222

ORDERED By The Zoning Commissioner of Baltimore County, this 6th day of September, 1966, 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 had before the Zoning Commissioner of Baltimore County in Room 100, County Office Building in Towson, Baltimore County, on the 17th day of October, 1966, at 11:00 o'clock A.M.

Zoning Commissioner of Baltimore County

JEROME B. WOLFF AND ASSOCIATES
Consulting Engineers
SUITE 403 JEFFERSON BUILDING
TOWSON, MARYLAND

SPECIAL EXCEPTION
PETITION FOR ELEVATOR
APARTMENT USE WITH ACCESSORY
BUSINESSES IN R A ZONE
(WEST OF COLONIAL ROAD)

BEGINNING for the same on the north side of Security Boulevard (120 feet wide) at a point distant 240 feet more or less Northwest from the centerline of Colonial Road, said point being the intersection of the north side of said Boulevard with the prolongation southerly of the third or line curving to the northeast with a radius of 759.00 feet for a distance of 325.24 foot line of the second parcel of land which by deed dated August 15, 1952 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2157 folio 498 etc. was conveyed by The Fidelity Trust Company to Nathan H. Shillman and running thence binding on the north side of said Security Boulevard westerly 30 feet more or less by an arc curving to the left with a radius of 860 feet to the southwest side of Mt. Vernon Drive as shown on the Plat of Colonial Park Estates as filed among the Land Records of Baltimore County in Plat Book No. 2, folio 337 thence leaving the north side of said Boulevard and binding on the southwest side of said Mt. Vernon Drive, northwesterly 255 feet more or less to the division line between lots No. 5 and 6, Block "K" as shown on said Plat, thence leaving the southwest side of said Mt. Vernon Drive and binding on said division line southerly 145 feet more or less

to the north side of said Security Boulevard thence binding on the north side of said Boulevard westerly 980 feet more or less by an arc curving to the left with a radius of 3400' to the beginning of the second or North 3 degrees 52 minutes 09 seconds West 150.00 foot line of that tract of land which by deed dated July 1, 1959 and recorded among the Land Records of Baltimore County in Liber W.J.R. No. 3558 folio 272 etc. was conveyed by Charleston Hall, Inc. to Bankers Trust Company et al thence leaving the north side of said Security Boulevard and binding on said second line and on a prolongation thereof northerly 200 feet more or less to intersect the tenth or South 85 degrees 33 minutes 20 seconds West 549.10 foot line of that tract of land which by deed dated August 13, 1962 and recorded among the Land Records of Baltimore County in Liber W.J.R. No. 4035 folio 311, etc. was conveyed by Garden Construction Corporation to the Vestry of the Church of St. Mary The Virgin of Baltimore County thence binding on a part of said tenth line reversely, easterly 375 feet more or less to the beginning thereof, thence binding on the ninth line of said lastly described deed northeasterly 607.76 feet to the beginning thereof, said point being in or near the center of Dead Run thence in the center of said Run easterly and southeasterly 500.00 feet more or less to intersect the third line of the firstly described deed, thence binding on a part of said line reversely and on a prolongation thereof southerly 200.00 feet more or less to the place of beginning.

CONTAINING approximately 8.5 acres of land.

Registered Land Surveyor: James R. Mask 7/1/66
See not only the result survey James R. Mask # 5096

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 107
Date of Posting: March 29, 1967
Posted for: appeal
Petitioner: Garden Construction Corp.
Location of property: N/S Security Blvd. 340' NW of Colonial Rd.
Location of Signs: N/S Security Blvd. 340' NW of Colonial Rd.
Remarks: 2 signs
Posted by: [Signature]
Date of return: March 30, 1967

N/S Security Blvd. 340' NW of Colonial Rd.
Garden Construction Corp., Petitioner
2 signs

RE: PETITION FOR SPECIAL EXCEPTION
for Elevator Apartment Building
including accessory business uses for
the convenience of its tenants
N/S Security Blvd. 24' NW of
Colonial Road - and
NE/S Security Blvd. 240' SE of
Colonial Road.
1st District of Baltimore County
Garden Construction Corporation,
Petitioner
A.E.T., Inc., Contract Purchaser
No. 67-85-X and
No. 67-86-X

ORDER OF APPEAL

MR. CLERK:

Please note an Appeal on behalf of William Stitely and Yvonne Stitely of Baltimore County to the Circuit Court of Baltimore County, in the matter of the Petition for Special Exception for real property situated N/S Security Blvd. 24' NW of Colonial Road and NE/S Security Blvd. 240' SE of Colonial Road, 1st District, Baltimore County, being the property of Garden Construction Company.

This appeal is from the decision of the County Board of Appeals of Baltimore County, dated August 25, 1967, granting the requested special exception and is filed pursuant to the provisions of Maryland Rules of Procedure 1101 b.

G. Mitchell Austin
Attorney for Petitioners
24 West Pennsylvania Avenue
Towson, Maryland 21204
828-9353

I HEREBY CERTIFY that a copy of the foregoing ORDER OF APPEAL was, prior to the filing of the PETITION FOR APPEAL, served on the County Board of Appeals of Baltimore County by leaving a copy of same with the Secretary of the said Board at its office in the County Office Building, Towson, Maryland 21204, this 22 day of September, 1967, pursuant to the Maryland Rules of Procedure.

G. Mitchell Austin

WILLIAM STITELY and
YVONNE STITELY
vs.
WILLIAM S. BALDWIN,
W. GILES PARKER, and
WALTER A. REITER, JR.,
constituting the BOARD OF APPEALS
OF BALTIMORE COUNTY
Defendants

PETITION FOR APPEAL

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The petition of William Stitely and Yvonne Stitely, his wife, by G. Mitchell Austin, their attorney, filed pursuant to the provisions of Maryland Rules of Procedure 1101 b respectfully represents unto your Honor:

1. That this appeal is from an Order of the County Board of Appeals of Baltimore County passed August 25, 1967, by which the Board granted the petition of Garden Construction Company for special exception of its property located N/S Security Blvd. 24' NW of Colonial Road and NE/S Security Blvd. 240' SE of Colonial Road, 1st District, Baltimore County, for elevator apartment buildings.

2. That the act of the Board in granting the requested special exception was arbitrary, illegal, and capricious and entirely inconsistent with the evidence presented to the said Board, for the following reasons:

- That the County Board of Appeals misinterpreted the evidence and misapplied the law in reaching their decision.
- That the decision of the Board was against the weight of the evidence.
- That the decision of the Board constitutes an abuse of the discretion of the said Board.

- That the decision of the said Board deprives your petitioners of the reasonable enjoyment of their land which is situate in close proximity to the land which is the subject of this appeal.
- And for other reasons to be assigned upon the hearing hereof.

WHEREFORE your Petitioners pray that this Honorable Court issue its Order reversing the aforesaid decision and order of the Board of Appeals of Baltimore County and deny the special exception of the subject property heretofore granted.

AND AS IN DUTY BOUND, ETC.

G. Mitchell Austin
Attorney for Petitioners
24 West Pennsylvania Avenue
Towson, Maryland 21204
828-9353

I HEREBY CERTIFY that a copy of the foregoing Petition was served upon the County Board of Appeals this day of September, 1967, by mailing a copy of same to the said Board at its office in the County Office Building, Towson, Maryland 21204.

G. Mitchell Austin

RE: PETITION FOR SPECIAL EXCEPTION :
for Elevator Apartment Building :
including accessory business uses for :
the convenience of its tenants :
N/S Security Blvd. 24' NW of :
Colonial Road - and :
NE/S Security Blvd. 240' SE of :
Colonial Road, :
1st District :
Garden Construction Corporation, :
Petitioner :
A.E.T., Inc., Contract Purchaser :
No. 67-85-X and
No. 67-86-X

OPINION

The petitioner in this case seeks a special exception for elevator apartment buildings on two parcels of ground situated on the north side of Security Boulevard at its intersection with Colonial Road in the First Election District of Baltimore County.

The petitioner, Garden Construction Corporation, filed separate petitions on each parcel. Case #67-85-X involves 0.5 acres of ground on which the petitioner proposes to construct 160 apartment units, and case #67-86-X consists of 5 acres of ground on which the petitioner proposes to construct 95 apartment units. These two cases were consolidated and heard as one case by the Board.

The properties are situated on the north side of Security Boulevard, on both the east and west side of the intersection of Security Boulevard and Colonial Road. The properties are irregular in shape and are rather narrow, lying between Security Boulevard and Dead Run. The land was placed on the western area map, in an R-A classification when the map was adopted by the County Council in November of 1962.

The petitioner proposes to erect two mid-rise apartment buildings containing a total of 255 apartments. This would be an increase of 20 apartment units over the allowable 235 apartment units that could be built on the subject properties without any special exception. The petitioner produced affirmative testimony that the special exception for elevator apartment buildings would in no way violate Section 502.1 of the zoning regulations.

Garden Construction Corp. - Case #67-85-X and Case #67-86-X

The only protestant, Mr. Yvonne Stitely whose property adjoins the subject property, testified that he had no objection to the proposed buildings, that she objects strenuously to the proposed buildings, and that traffic is heavy on Security Boulevard. The Board does not feel that her fears are well founded. We do not see how an increase of 20 units on 15 1/2 acres of ground could create any traffic congestion, nor do we see how it could in any way impede the efficient operation of Section 502.1 of the zoning regulations.

For the reasons given above, the petition for special exception for elevator apartment buildings will be granted subject to site plan approval of the Office of Planning and Zoning, Bureau of Public Services, and the State Road Commission.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 25th day of August, 1967 by the County Board of Appeals, ORDERED that the special exception petitions for, be and the same are hereby GRANTED, subject to site plan approval of the Office of Planning and Zoning, Bureau of Public Services, and the State Road Commission.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William S. Baldwin, Chairman

W. Giles Parker

Walter A. Reiter, Jr.

Appealed 9/1/67 - Garden Construction Corp. - Case #67-85-X & 67-86-X

WILLIAM STITELY and
YVONNE STITELY
vs.
WILLIAM S. BALDWIN,
W. GILES PARKER, and
WALTER A. REITER, JR.,
constituting the
BOARD OF APPEALS
OF BALTIMORE COUNTY
Mile. District No. 8
Folio No. 239
File No. 3824

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule 1101-86(4) of the Maryland Rules of Procedure, William S. Baldwin, W. Giles Parker and Walter A. Reiter, Jr., constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party in the proceeding before its namely, T. Boyard Williams, Jr., Esq., 6732 Holabird Avenue, Dundalk, Maryland, 21222, and Johnson Davis, Esq., Loyola Federal Building, Towson, Maryland, 21204, Attorneys for the Petitioner, and G. Mitchell Austin, Esq., 24 West Pennsylvania Avenue, Towson, Maryland, 21204, Attorney for the Protestants, a copy of which notice is attached hereto and prayed that it may be made a part thereof.

Muriel E. Buddemeyer
County Board of Appeals of Baltimore County
County Office Building, Towson, Md. 21204
Wholly 9-2889, Ext. 577

I hereby certify that a copy of the foregoing Certificate of Notice has been mailed to T. Boyard Williams, Jr., Esq., 6732 Holabird Avenue, Dundalk, Maryland, 21222, and Johnson Davis, Esq., Loyola Federal Building, Towson, Maryland, 21204.

Stitely, William

- 2 -

21204, Attorneys for the Petitioner, and G. Mitchell Austin, Esq., 24 West Pennsylvania Avenue, Towson, Maryland, 21204, Attorney for the Protestants, on this 28th day of September, 1967.

Muriel E. Buddemeyer
County Board of Appeals of Baltimore County

WILLIAM STITELY and
YVONNE STITELY
vs.
WILLIAM S. BALDWIN,
W. GILES PARKER and
WALTER A. REITER, JR.,
constituting the
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Mile. District No. 8
Folio No. 239
File No. 3824

ANSWER TO ORDER OF APPEAL TO CIRCUIT COURT FOR BALTIMORE COUNTY AND CERTIFIED COPIES OF PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND BOARD OF APPEALS OF BALTIMORE COUNTY

MR. CLERK:

Please file, & C.

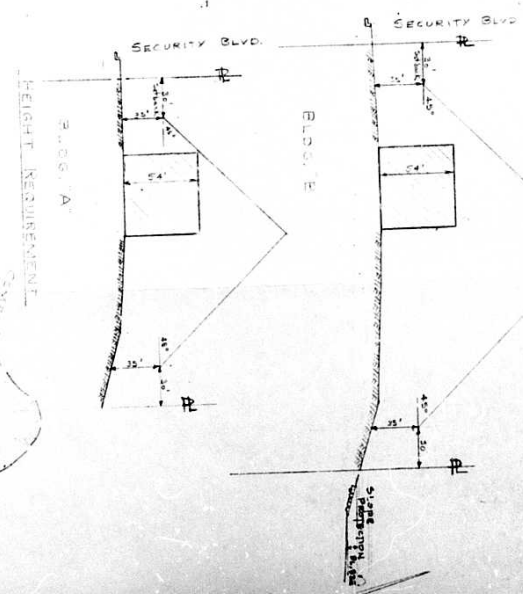
Edith T. Clendinning, Secretary
County Board of Appeals of Baltimore County

TABLE 1. Continued

Cost of Advertisement, \$.....

EXISTING USE OF PROPERTY
 PROPOSED USE OF PROPERTY
 TOTAL NUMBER OF UNITS
 EXISTING ZONING
 PROPOSED ZONING
 GROSS AREA OF PROPERTY
 NET AREA OF PROPERTY
 APARTMENT FLOOR SPACE
 ACCESSORY BUSINESS FLOOR SPACE
 OFF-STREET PARKING REQUIRED
 OFF-STREET PARKING PROVIDED

VACANT
 6 STY ELEVATOR APT BLDG.
 150
 R.A.
 R.A.
 9.2 AC.
 8.5 AC.
 163,800 SQ. FT.
 24,570 SQ. FT.
 283 SPACES
 283 SPACES



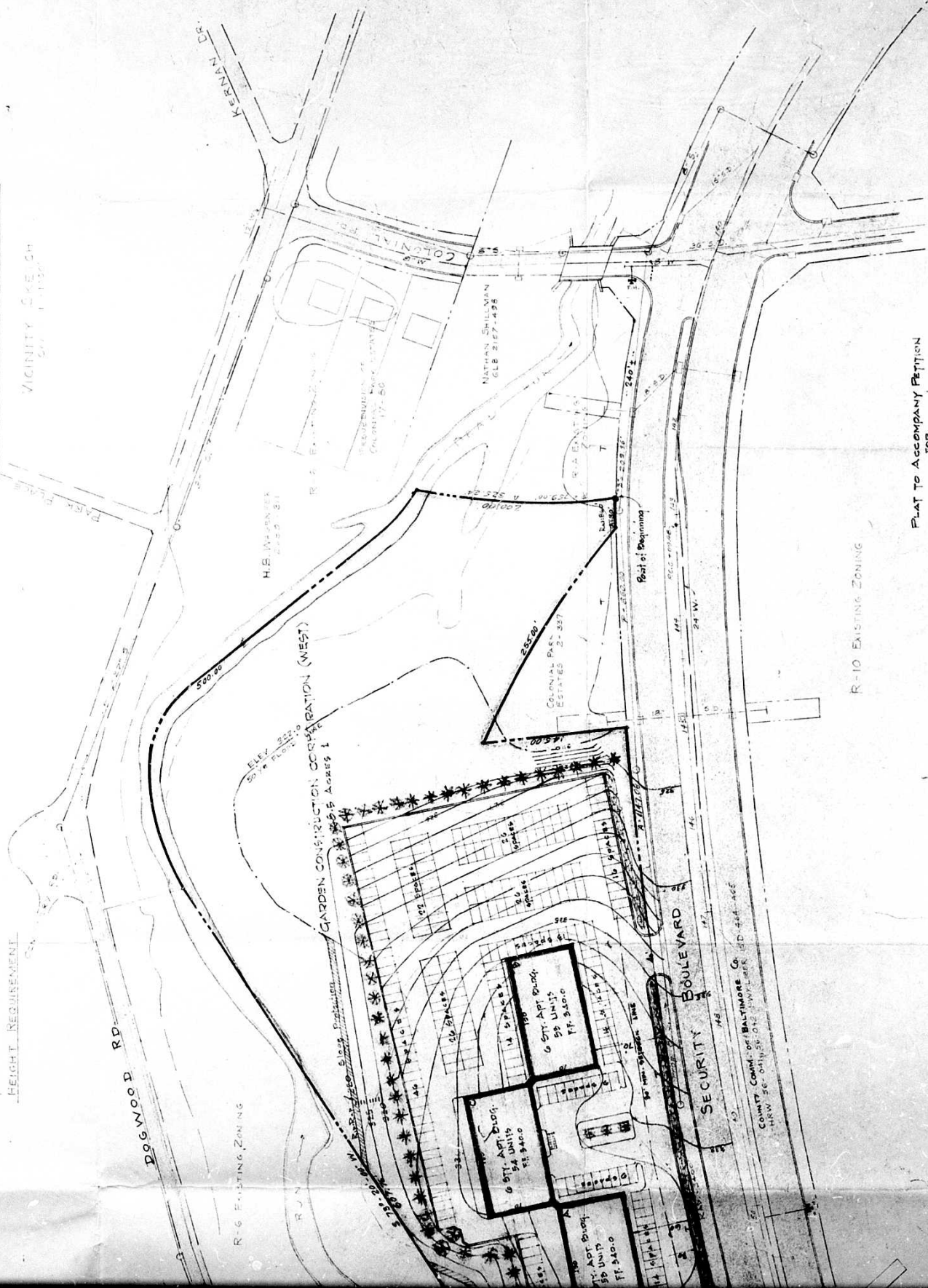
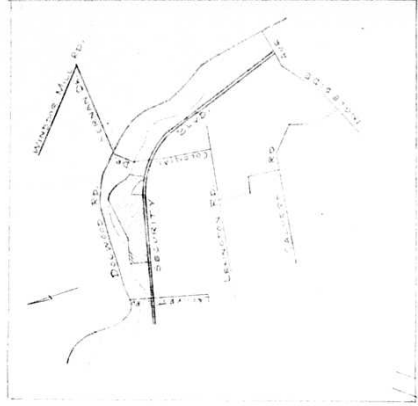
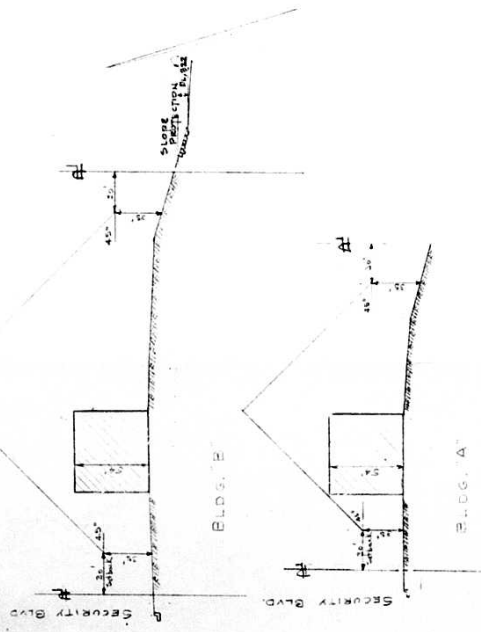
THE WESTERN OF THE CHURCH
 OF ST MARY THE VIRGIN
 4035 - 203

THE WESTERN OF THE CHURCH
 OF ST MARY THE VIRGIN
 W.J.R. 4035 - 211

GARDEN CONSTRUCTION CORPORATION (WEST)
 6.5 ACRES 1

A.E.T. INC. AND GARDEN CONSTRUCTION CORP.
 1 CHARLES CENTER BALTIMORE 18, MD
 2406 GREENMOUNT AVE BALTIMORE 18, MD

MICROFILMED



R-10 EXISTING ZONING

PLAT TO ACCOMPANY PETITION
FOR
SPECIAL EXCEPTION
ELEVATOR APARTMENT USE
WITH ACCESSORY BUSINESS
IN EXISTING R-10 ZONE
1ST ELECTION DISTRICT, BALTO. CO. MD.
SCALE: 1" = 50'

A.E.T. INC.
1 CHARLES CENTER
BALTIMORE 1, MD.

AND

GARDEN CONSTRUCTION CORP.
2406 GREENMOUNT AVE.
BALTIMORE 16, MD.

JEROME B. WOLFE & ASSOCIATES, INC.
CONSULTING ENGINEERS

BEARINGS, DISTANCES AND AREAS SHOWN
ON THIS PLAT DO NOT IMPLY A RECENT
SURVEY HAS BEEN TAKEN FROM EXISTING
DEEDS AND PLATS.

James E. Shank 8/14/66
JAMES E. SHANK, LAND SURVEYOR

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