Copies Pltf. take file - 3/1

2/27/85 TB

HOWARD L. SMITH, et al	•	IN THE
Plaintiffs		CIRCUIT COURT
v.	•	FOR
GOOD HUMOR, CORPORATION		BALTIMORE COUNTY
	•	
Defendant		Equity - 139/63/101850

• • • • • •

SUBPOENA DUCES TECUM

Mr. Clerk:

Please issue a Subpoena Duces Tecum for the following named witness:

Zoning Commissioner of Baltimore County
County Office Building
Towson, Maryland 21204

To bring and produce the following:

1. All files, documents, notes, data and information concerning any and all applications by Good Humor Corporation for zoning variances at its Timonium facility, including but not limited to File No. 83-158A.

To be and to appear before the Circuit Court for Baltimore County, County Courts Building, 401 Bosley Avenue, Towson, Maryland on Friday, March 1, 1985, at 9:30 A. M., to testify on behalf of the Plaintiffs.

Marvin Singer

George T. Canaras
10 East Eager Street
Baltimore, Maryland 21202
(301) 752-1122
Attorneys for Plaintiff

FEB 26 1985

PETITION FOR ZONING VARIANCE 83-158-A

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 255.2 (243 2 & 243.1) to permit a/ side yard setback of thirty (30) feet in lieu of the required fifty (50) feet. and a front yard setback of 55 ft. in lieu of the required 75 ft.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

SEE EXHIBIT A

Property is to be posted and adverused as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

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

Contract Purchaser:
(Type or Print Name)
Signature
Address
City and State

Attorney for Petitioner:
David B. Abramoff
(Type or Print Name)
Signature
1800 Mercantile Bank & Trust Bldg.
2 Hopkins Plaza
Address
Baltimore, Maryland 21201
City and State
Attorney's Telephone No.: (301) 244-7627

Legal Owner(s):
GOOD HUMOR CORPORATION
(Type or Print Name)
Signature
D. W. St. Clair
(Type or Print Name)
Signature
800 Sylvan Avenue (201) 567-8000
Address Phone No.
Englewood Cliffs, N. J. 07632
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
John C. Young, Assistant General Counsel
Name
800 Sylvan Avenue
Englewood Cliffs, N. J. 201) 567-8000
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 29th day of October, 1982, 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 13th day of January, 1983, at 11:00 o'clock A. M.

Zoning Commissioner of Baltimore County.

(over)

ORDER RECEIVED FOR FILING
DATE
BY

Good Humor Corporation 83-158-A
W/S Greenspring Dr., 2,350' S of Timonium Rd.
8th

83-158-A
#92

MAP
SECTION
DISTRICT
TYPE
HEARING
FINAL

BALTIMORE COUNTY
ZONING PLANS
ADVISORY COMMITTEE

PETITION AND SITE PLAN

EVALUATION COMMENTS

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO William E. Hammond, Zoning Commissioner
Date December 20, 1982

FROM Norman E. Gerber, Director, Office of Planning and Zoning

SUBJECT Zoning Petition No. 83-158-A, Good Humor Corporation

If granted it is requested that the petitioner be required to submit details of landscaping for approval by the Division of Current Planning and Development.

Norman E. Gerber,
Director of Planning and Zoning

NEG:JGH:slc

cc: Arlene January
Shirley Hess

David B. Abramoff, Esquire
1800 Mercantile Bank & Trust Bldg.
2 Hopkins Plaza
Baltimore, Md. 21201

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received and accepted for filing this 29th day of October, 1982.

WILLIAM E. HAMMOND
Zoning Commissioner

Petitioner Good Humor Corporation
Petitioner's Attorney David B. Abramoff, Esq. Reviewed by: Nicholas B. Commodari
Chairman, Zoning Plans Advisory Committee

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

December 30, 1982

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

Nicholas B. Commodari
Chairman

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

David B. Abramoff, Esquire
1800 Mercantile Bank & Trust Bldg.
2 Hopkins Plaza
Baltimore, Maryland 21201

RE: Item No. 92 - Case No. 83-158-A
Petitioner - Good Humor Corporation
Variance Petition

Dear Mr. Abramoff:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following 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 with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Located on the west side of Greenspring Drive south of Timonium Road, the subject property is presently improved with the facilities of your client's ice-cream operation.

This hearing is required in order to "legalize" the side and front yard setbacks of the "cold storage building" along the west property line. A permit was previously approved for this structure. However, it appears to have been issued in error.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

NICHOLAS B. COMMODARI, Chairman
Zoning Plans Advisory Committee

NBC:bsc

Enclosures

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL, P.E.
DIRECTOR

December 29, 1982

Mr. William E. Hammond
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #92 (1982-1983)
Property Owner: Good Humor Corporation
W/S Greenspring Dr. 2350' S. from centerline of Timonium Road
Acres: 4.206 District: 8th

Dear Mr. Hammond:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

Baltimore County highway and utility improvements exist and are not directly involved.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 92 (1982-1983).

Very truly yours,

ROBERT A. MORTON, P.E., Chief
Bureau of Public Services

RAM:EAM:FWR:ss

S-SE Key Sheet
49 & 50 NW 3 & 4 Pos. Sheets
NW 13 A Topo
60 Tax Map

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494-3211

NORMAN E. GERBER
DIRECTOR

December 21, 1982

Mr. William E. Hammond, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item # 92, Zoning Advisory Committee Meeting, November 9, 1982, are as follows:

Property Owner: Good Humor Corporation
Location: W/S Greenspring Drive 2,350' S. from centerline of Timonium Road
Acres: 4.206
District: 8th

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

Landscaping should be provided where possible.

Very truly yours,

John L. Wimbley
Planner III
Current Planning & Development

JLW:rh

1/13
83-158A

Dec. 6, 1982
Date

BALTIMORE COUNTY DEPARTMENT OF HEALTH

Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Zoning Item # 92, Zoning Advisory Committee Meeting of Nov. 9, 1982
Property Owner: Good Humor Corporation
Location: W/S Greenspring Drive District 8
Water Supply Public Sewage Disposal Public

COMMENTS ARE AS FOLLOWS:

(X) Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Environmental Support Services, for final review and approval.

( ) Prior to new installation/s of fuel burning equipment, the owner should contact the Division of Air Pollution Control, 494-3775, to obtain requirements for such installation/s before work begins.

( ) A permit to construct from the Division of Air Pollution Control is required for such items as spray paint processes, underground gasoline storage tank/s (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.

( ) A permit to construct from the Division of Air Pollution Control is required for any charbroiler operation which has a total cooking surface area of five (5) square feet or more.

( ) Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type of equipment to be used for the food service operation must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.

( ) Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other appurtenances pertaining to health and safety; two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Health for review and approval. For more complete information, contact the Recreational Hygiene Section, Division of Environmental Support Services.

( ) Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.

( ) If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with Water Resources Administration requirements.

SS 20 1082 (1)

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that strict compliance with the Baltimore County Zoning Regulations would/~~would not~~ result in practical difficulty and unreasonable hardship upon the Petitioner(s) and the granting of the variance(s) requested will/will not adversely affect the health, safety, and general welfare of the community, the variance(s) should ~~should not~~ be granted.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 12th day of May, 1983, that the herein Petition for Variance(s) to permit a side yard setback of 30 feet in lieu of the required 50 feet and a front yard setback of 55 feet in lieu of the required 75 feet for the existing cold storage building, in accordance with the site plan prepared by E.F. Raphel, revised December 17, 1982, and marked Petitioner's Exhibit 10, is hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions:

1. No trucks shall be permitted west of the cold storage building.
2. Sound baffles shall be provided between compressors mounted outside the building and adjacent residences.
3. Approval of the aforementioned site plan by the Department of Public Works and the Office of Planning and Zoning, including landscaping and screening required for approval by the Current Planning and Development Division.

Jean M. H. Jung
Deputy Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
DATE May 12, 1983
BY Nicholas Commodari
Administrative Assistant

Zoning Item # 92
Page 2

( ) Any existing underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and either be removed from the property or properly backfilled.

( ) Soil percolation tests have been conducted.
  ( ) The results are valid until _____.
  ( ) Revised plans must be submitted prior to approval of the percolation tests.

( ) Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.

( ) In accordance with Section 13-117 of the Baltimore County Code, the water well yield test
  ( ) shall be valid until _____.
  ( ) is not acceptable and must be retested. This must be accomplished prior to conveyance of property or approval of Building Permit Applications.

( ) All roads and parking areas should be surfaced with a dustless, bonding material.

( ) No health hazards are anticipated.

( ) Others _____

Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

SS 20 1080 (2)

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Nicholas Commodari, Zoning Dept. Date December 9, 1982

FROM Charles E. Burnham, Chief

SUBJECT Zoning Advisory Committee Meeting of November 9, 1982

Item # 86	See Comments
Item #87	See Comments
Item # 88	See Comments
Item # 89	No Comments
Item # 90	Go Look At It First
Item # 91	Std. Comment
Item # 92	No Comment
Item # 93	See Nick First

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204
825-7310

PAUL H. REINCKE
CHIEF

December 20, 1982

Mr. William Hammond
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Good Humor Corporation

Location: W/S Greenspring Drive 2350' S. from centerline of Timonium Road

Item No.: 92 Zoning Agenda: Meeting of November 9, 1982

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

( ) 2. A second means of vehicle access is required for the site.

( ) 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.

( ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.

( ) 6. Site plans are approved, as drawn.

( ) 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWER: Cat Orsini 12/28/82 Planning Group
Special Inspection Division

Noted and Approved: George M. Wagner
Fire Prevention Bureau

JK/mb/cm

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Nicholas B. Commodari, Zoning Advisory Committee Date November 8, 1982

FROM Sharon M. Caplan, Economic Development Commission

SUBJECT Item #92 - Property Owner: Good Humor Corporation
Location: W/S Greenspring Drive 2350' S. from centerline of Timonium Road
Existing Zoning: M.L. - IM
Proposed Zoning: Variance to permit a side/rear yard setback of 30' in lieu of the required 50'.

In recognition of Baltimore County's desire to foster a healthy economic growth, we request the zoning officer to evaluate the above request in the best interest of industrial expansion.

Sharon Caplan
SHARON M. CAPLAN
Economic Assistant

SMC/sb

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent — Towson, Maryland - 21204

Date: November 8, 1982

Mr. William E. Hammond
Zoning Commissioner
Baltimore County Office Building
1111 West Chesapeake Avenue
Towson, Maryland 21204

Z.A.C Meeting of: November 9, 1982

RE: Item No: 86, 87, 88, 89, 90, 91, 92, 93
Property Owner:
Location:
Present Zoning:
Proposed Zoning:

District:
No. Acres:

Dear Mr. Hammond:

All of the above have no bearing on student population.

Very truly yours,

Wm. Nick Petrovich, Assistant
Department of Planning

WNP/bp

BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEPHEN E. COLLINS
DIRECTOR

January 5, 1983

Mr. William Hammond
Zoning Commissioner
County Office Building
Towson, Maryland 21204

ZAC- Meeting of November 9, 1982
Item Nos. 86, 87, 88, 89, 90, 91, 92, and 93.

Dear Mr. Hammond:

The Department of Traffic Engineering has no comments for item numbers 86, 87, 88, 89, 90, 91, 92, and 93.

Michael S. Flanigan
Traffic Engineering Assoc. II

MSF/ccm

1/13
83-158-A

PETITION FOR	*	
ZONING VARIANCE	*	
BEFORE THE	*	Case No. 83-158-A
ZONING COMMISSIONER	*	
OF BALTIMORE COUNTY	*	

* * * * * * * * * * * * *

PETITIONER'S PRE-HEARING MEMORANDUM

This pre-hearing memorandum is submitted on behalf of the petitioner, Good Humor Corporation.

Sought is a variance from the side and front yard[1] set back requirements applicable to Petitioner's cold storage warehouse facility, located in a M.L. Zone within 100 feet of a residential zone boundary.

The evidence will show that the warehouse facility was constructed in 1973. It also will show that preliminary survey work on the property was performed in August and September of 1972. At that time, the County Zoning Commissioner indicated that 30' set backs on the rear and side[2] yards would be required, (Letter dated August 24, 1972, Exhibit 1)[3], even though the Commissioner appears to have recognized that the adjacent property was residential. (Letter dated September 1, 1972, Exhibit 2).

Prior to construction, application was made for a building permit. As part of that process, a Plot Plan (Exhibit 3) was prepared by E. F. Raphel & Associates, Registered

---

1/ The Plat accompanying the Petition erroneously indicates that a variance also is requested as to the rear yard set back. Such a variance is not necessary because the rear yard is not within 100 feet of a residential zone boundary. Similarly, the references in Exhibit A of the Petition to rear yard set backs can be disregarded.

2/ This would have been correct if the facility was not within 100' of a residential zone boundary.

3/ The references are to Exhibits Good Humor intends to introduce at the hearing. They are not attached to this memorandum.

Professional Land Surveyor, and submitted to the County Office of Planning and Zoning.

The Plot Plan contained an error. It reflected the adjacent property as M.L., when in fact it was not. The error was not discovered by Good Humor, by the architect who sited the facility or by the County Zoning Commissioner and the Office of Planning and Zoning, even though coordinates were set forth on the drawing. The Plot Plan was approved by the Zoning Commissioner and the Office of Planning and Zoning in early 1973. Zoning approval also was reflected on the Building Permit, issued January 15, 1973 (Exhibit 4). The building was constructed in accordance with the approved plans[4] and an occupancy permit was issued in November of 1973 (Exhibit 5).

Late in 1973, when construction of the building was essentially complete, Good Humor and the County realized that a technical violation of the set back requirements existed. Upon coming to this realization, the Zoning Department suggested that a variance petition be filed in order to correct the error. (Memorandum dated October 4, 1973, Exhibit 6).

For one reason or another, the petition was not filed until now. Significantly, no complaint was made by persons in the adjacent residential zone or by anyone else regarding the set back requirement until June of 1980.[5]

4/ As such, the set back on the side yard was approximately 30', instead of the required 50' and the set back on the front yard was approximately 55' instead of the required 75'.

5/ In late 1979 Howard and Frances Smith, owners of property known as 518 Forest Drive, located in the adjacent residential zone, filed suit against Good Humor in the Circuit Court for Baltimore County alleging that the property was being used as a trucking terminal or warehouse and claiming that such use was not permitted in an M.L. Zone. The facility is not (and has not been) used as a trucking terminal. It has been used as a warehouse - a permitted use in an M.L. Zone. The suit was amended in June of 1980 to also claim a violation of set back requirements. It has remained essentially dormant since that time.

This variance request, of course, is governed by Section 307 of the Baltimore County Zoning Regulations ("B.C.Z.R."). It is permitted if strict compliance would result in "practical difficulty or unreasonable hardship" and if it would be in harmony with the spirit and intent of the set back regulations and would not result in "substantial injury to the public health, safety and general welfare". Section 307.

Said another way, under the "practical difficulty" standard, Good Humor must show (1) that compliance with the strict letter of the set backs would be unnecessarily burdensome, (2) that grant of the variance would do substantial justice and (3) that grant of the variance can be accomplished in such a fashion that the spirit of the ordinance will be observed and public safety and health secured. Anderson v. Board of Appeals, 22 Md. App. 28, 39, 322 A.2d 220 (1974). See also, McLean v. Soley, 270 Md. 213, 310 A.2d 783 (1973); Zengerle v. Bd. of Co. Commissioners, 262 Md. 1, 276 A.2d 646 (1971); Loyola Loan Assn. v. Buschman, 227 Md. 243, 176 A.2d 355 (1961).

The evidence to be presented in this case meets the burden.

First, strict compliance with the set back would be unnecessarily burdensome. It would require Good Humor to demolish a section of its building (which has existed for nearly ten years) at great cost and expense.

Second, grant of the variance would do substantial justice. The evidence will show that the present building location was approved by the County. The reason for that approval appears to rest on a surveyor's error, which neither Good Humor or the County detected at the time. It would be unjust to require Good Humor to demolish a section of its

building, when both Good Humor and the County believed the building to be properly sited at the time of construction and when the County approved the site plan and permit. See, De Azcarte v. District of Columbia Bd., Etc., 388 A.2d 1233, 1239 (D.C.App. 1978).

Third, grant of the variance can be accomplished in such a fashion that the spirit of the set back ordinance will be observed and public safety and welfare secured. The purpose of set back restrictions at zoning boundaries is to provide a buffer between zones. State v. Gallop Building, 103 N.J. Super. 367, 247 A.2d 350, 352 (1968). The purpose will be observed here, particularly in view of the significant buffer landscaping which exists already. (Photographs, Exhibits 7A, B and C).

CONCLUSION

For all the foregoing reasons, and for such additional reasons as are presented at the hearing, the requested variance should be granted.

James K. Archibald

David B. Abramoff /jw

David B. Abramoff
1800 Mercantile Bank & Trust Bldg.
Two Hopkins Plaza
Baltimore, Maryland 21201
(301) 244-7400

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of January, 1983 a copy of the foregoing Petitioner's Pre-hearing Memorandum was hand delivered to Peter Max Zimmerman, Esquire and John W. Hessian, III, Esquire, Room 223, Court House, Towson, Maryland 21204.

James K. Archibald

0166J

IN THE MATTER OF THE APPLICATION OF GOOD HUMOR CORPORATION FOR ZONING VARIANCES On property located on the west side of Greenspring Drive, 2,350' south of Timonium Road - 8th District	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
Howard and Frances Smith, Protestants-Appellants	*	Misc. Doc. No. 16 Folio No. 29
Zoning File No. 83-158-A	*	File No. 83-M-394

* * * * * * * * *

MOTION TO EXTEND TIME FOR FILING RECORD

Now come the Appellants, Howard Smith and Frances Smith, by their attorneys, Marvin I. Singer and George T. Canaras, pursuant to Maryland Rule B7, and respectfully move that the time for transmission of the record in this action to the Circuit Court be extended up to and including February 3, 1984. The grounds of the Motion are as follows:

1. That a timely Order for Appeal and Petition for Appeal were filed herein on December 5, 1983, and the Record on Appeal would therefore be required to be filed not later than January 4, 1984.

2. A timely request was made for preparation of the transcript of testimony, but counsel for Appellants have been advised that such transcript cannot be completed within the required thirty (30) day period.

3. Accordingly, an extension of time is needed in which to allow the completion of the transcript of testimony by the Court Reporter.

WHEREFORE, Appellants respectfully request that this

Honorable Court pass an Order extending the time for filing the record herein up to and including February 3, 1984.

/s/
MARVIN I. SINGER
10 East Eager Street
Baltimore, Maryland 21202
(301) 752-1122

/s/
GEORGE T. CANARAS
1700 Charmuth Road
Lutherville, Maryland 21093
(301) 252-0582

Attorneys for Appellants,
Howard Smith and Frances Smith

ORDER

Upon the foregoing Motion, it is this 3rd day of January, 1984, ORDERED by the Circuit Court for Baltimore County that the time for filing the Record on Appeal in the within proceedings be and is hereby extended up to and including February 3, 1984.

/s/ LEONARD S. JACOBSON
JUDGE

I HEREBY CERTIFY that on this 3rd day of January, 1984, a copy of the aforegoing Motion to Extend Time for Filing Record, and Order, was mailed to JAMES K. ARCHIBALD, ESQUIRE and DAVID B. ABRAMOFF, ESQUIRE, 1800 Mercantile Bank and Trust Building, 2 Hopkins Plaza, Baltimore, Maryland 21201, Attorneys for Good Humor Corporation; and to JOHN W. HESSIAN, ESQUIRE, Peoples Counsel, Court House, Towson, Maryland 21202; and to the County Board of Appeals, Room 200, Court House, Towson, Maryland 21204.

/s/
Marvin I. Singer

IN THE MATTER OF THE APPLICATION OF GOOD HUMOR CORPORATION FOR ZONING VARIANCES On property located on the west side of Greenspring Drive, 2,350' south of Timonium Road - 8th District	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
Howard and Frances Smith, Protestants-Appellants	*	Misc. Doc. No. 16 Folio No. 29
Zoning File No. 83-158-A	*	File No. 83-M-394

* * * * * * * * *

ORDER FOR APPEAL BY APPELLANTS,
HOWARD SMITH AND FRANCES SMITH

MR. CLERK:

Please enter an appeal on behalf of the Appellants, Howard Smith and Frances Smith, from the Amended Order of the County Board of Appeals of Baltimore County in the above-entitled case dated December 13, 1983.

MARVIN I. SINGER
10 East Eager Street
Baltimore, Maryland 21202
(301) 752-1122

GEORGE T. CANARAS
1700 Charmuth Road
Timonium, Maryland 21093
(301) 252-0582

Attorneys for Appellants

I HEREBY CERTIFY that on this 10th day of January, 1984, a copy of the aforegoing Order for Appeal by Appellants, Howard

Smith and Frances Smith was mailed to JAMES K. ARCHIBALD, ESQUIRE and DAVID B. ABRAMOFF, ESQUIRE, 1800 Mercantile Bank and Trust Building, 2 Hopkins Plaza, Baltimore, Maryland 21201, Attorneys for Good Humor Corporation; and to JOHN W. HESSIAN, ESQUIRE, Peoples Counsel, Court House, Towson, Maryland 21204; and a copy served upon the County Board of Appeals.

Marvin I. Singer

RECEIPT IS HEREBY ACKNOWLEDGED this 1st day of January, 1984 of a copy of the foregoing Order for Appeal.

COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY

By Jane Holmes

observed and public safety and health secured. Anderson v. Board of Appeals, 22 Md. App. 28, 39, 322 A.2d 220 (1974). See also, McLean v. Soley, 270 Md. 213, 310 A.2d 783 (1973); Zengerle v. Bd. of Co. Commissioners, 262 Md. 1, 276 A.2d 646 (1971); Loyola Loan Assn. v. Buschman, 227 Md. 243, 176 A.2d 355 (1961).

The evidence presented to the Deputy Zoning Commissioner and to be presented to this Board in this case meets the burden.

First, strict compliance with the setback would be unnecessarily burdensome. It would require Good Humor or any future owner to demolish a section of its building (which has existed for nearly ten years) at great cost and expense.

Second, grant of the variance would do substantial justice. The evidence will show that the present building location was approved by the County. The reason for that approval appears to rest on an unfortunate error, which neither Good Humor or the County detected at the time. It would be unjust to require Good Humor or any future owner to demolish a section of its building, when both Good Humor and the County believed the building to be properly sited at the time of construction and when the County approved the site plan and permit. See, De Azcarte v. District of Columbia Bd., Etc., 388 A.2d 1233, 1239 (D.C. App. 1978).

Third, grant of the variance can be accomplished in such a fashion that the spirit of the setback ordinance will be observed and public safety and welfare secured. The purpose of setback restrictions at zoning boundaries is to provide a buffer between zones. State v. Gallop Building, 103

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

IN RE AN APPEAL FROM AN ORDER OF THE DEPUTY ZONING COMMISSIONER	Case No. 83-158-A GOOD HUMOR CORPORATION W/S Greenspring Dr., 2350' S of Timonium Rd. 8th District Variances - Side yard setback of 30' in lieu of 50'; Front yard setback of 55' in lieu of 75'. 5/12/83 - D.Z.C.'s Order - GRANTED w/restrictions

* * * * * * * * * * *

GOOD HUMOR'S PREHEARING MEMORANDUM

This prehearing memorandum is submitted on behalf of Good Humor Corporation, the Appellee, which sought and received from the Deputy Zoning Commissioner a variance from the side and front yard setback requirements applicable to Good Humor's cold storage warehouse facility, located in an M.L. Zone within 100 feet of a residential boundary. An appeal from that decision was filed with this Board on June 10, 1983 by Protestants Howard and Frances Smith.

The evidence will show that the warehouse facility was constructed in 1973. It also will show that preliminary survey work on the property was performed in August and September of 1972. At that time, the County Zoning Commissioner indicated that 30' setbacks on the rear and side[1] yards would be

1/ This would have been correct if the facility was not within 100' of a residential zone boundary.

required, (Letter dated August 24, 1972, Exhibit 1)[2], even though the Commissioner appears to have recognized that the adjacent property was residential. (Letter dated September 1, 1972, Exhibit 2).

Prior to construction, application was made for a building permit. As part of that process, a Plot Plan (Exhibit 3) was prepared by E. F. Raphel & Associates, Registered Professional Land Surveyor, and submitted to the County Office of Planning and Zoning.[3]

The Plot Plan was approved by the Zoning Commissioner and the Office of Planning and Zoning in early 1973. Zoning approval was also reflected on the Building Permit, issued January 15, 1973 (Exhibit 4). The building was constructed in accordance with the approved plans[4] and an occupancy permit was issued in November of 1973 (Exhibit 5).

2/ The references are to Exhibits entered in to evidence at the hearing before the Deputy Zoning Commissioner. They are not attached to this memorandum.

3/ Because the Zoning Maps available at the time were imprecise as to the location of the zoning line in the area, the adjacent property was reflected on the Plot Plan as M.L., when in fact it was not. The error was not discovered by Good Humor, by the architect who sited the facility or by the County Zoning Commissioner and the Office of Planning and Zoning, even though coordinates were set forth on the drawing.

4/ As such, the setback on the side yard was approximately 30', instead of the required 50' and the setback on the front yard was approximately 55' instead of the required 75'.

Late in 1973, when construction of the building was essentially complete, Good Humor and the County realized that a technical violation of the setback requirements existed. Upon coming to this realization, the Zoning Department suggested that a variance petition be filed in order to correct the error. (Memorandum dated October 4, 1973, Exhibit 6).

For one reason or another, the petition was not filed until October of 1982. Significantly, no complaint was made by persons in the adjacent residential zone or by anyone else regarding the setback requirement until June of 1980.[5]

The variance at issue, of course, is governed by Section 307 of the Baltimore County Zoning Regulations ("B.C.Z.R."). It is permitted if strict compliance would result in "practical difficulty or unreasonable hardship" and if it would be in harmony with the spirit and intent of the setback regulations and would not result in "substantial injury to the public health, safety and general welfare". Section 307.

Said another way, under the "practical difficulty" standard, Good Humor must show (1) that compliance with the strict letter of the setbacks would be unnecessarily burdensome, (2) that grant of the variance would do substantial justice, and (3) that grant of the variance can be accomplished in such a fashion that the spirit of the ordinance will be

5/ In late 1979 Howard and Frances Smith, owners of property known as 518 Forest Drive, located in the adjacent residential zone, filed suit against Good Humor in the Circuit Court for Baltimore County alleging that the property was being used as a trucking terminal or warehouse and claiming that such use was not permitted in an M.L. Zone. The facility is not (and has not been) used as a trucking terminal. It has been used as a warehouse - a permitted use in an M.L. Zone. The suit was amended in June of 1980 to also claim a violation of setback requirements. It has remained essentially dormant since that time.

N.J. Super. 367, 247 A.2d 350, 352 (1968). The purpose will be observed here, particularly in view of the significant buffer landscaping which exists already. (See the photographs received in evidence at the Deputy Zoning Commissioner's hearing).

Considering the factors just noted, Deputy Zoning Commissioner Jung on May 12, 1983, after a hearing in which Protestants Howard and Frances Smith appeared, through counsel, and cross-examined witnesses and offered testimony of their own, found "that strict compliance with the Baltimore County Zoning regulations would result in practical difficulty and unreasonable hardship upon [Good Humor] and the granting of the variances requested will not adversely affect the health, safety and general welfare of the community". She therefore properly granted the requested variance.

CONCLUSION

For all the foregoing reasons, and for such additional reasons as are presented at the hearing, the granting of the requested variances by the Deputy Zoning Commissioner should be affirmed.

James K. Archibald

David B. Abramoff / per JKA
David B. Abramoff
1800 Mercantile Bank & Trust Bldg.
Two Hopkins Plaza
Baltimore, Maryland 21201
(301) 244-7400

Attorneys for Good Humor Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of October, 1983 a copy of the foregoing Good Humor's Prehearing Memorandum was mailed, first class, postage prepaid, to Marvin I. Singer, Esquire, Ten East Eager Street, Baltimore, Maryland 21202, George Canaras, Esquire, 1700 Charmouth Road, Lutherville, Maryland 21093; Peter Max Zimmerman, Esquire and John W. Hessian, III, Esquire, Suite 603, 102 W. Pennsylvania Avenue, Towson, Maryland 21204.

James K. Archibald

IN THE MATTER OF THE APPLICATION OF GOOD HUMOR CORPORATION FOR ZONING VARIANCES On property located on the west side of Greenspring Drive, 2,350' south of Timonium Road - 8th District	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
Howard and Frances Smith, Protestants-Appellants	:	Misc. Doc. No. 16
Zoning File No. 83-158-A	:	Folio No. 29
	:	File No. 83-M-394

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William R. Evans, Joanne L. Suder, and Diane K. Vincent, 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, David B. Abramoff, Esq. and James K. Archibald, Esq., 1800 Mercantile Bank & Trust Bldg., Baltimore, Md. 21201, Counsel for Petitioner; Good Humor Corp., c/o D. W. St. Clair, 800 Sylvan Ave., Englewood Cliffs, N. J. 07632, Petitioner; John C. Young, Esq., Asst. General Counsel, Good Humor Corp., 800 Sylvan Ave., Englewood Cliffs, N. J. 07632; Marvin I. Singer, Esq., 10 E. Eager St., Baltimore, Md. 21202, Counsel for Protestants; George Canaras, Esq., 1700 Charmouth Road, Lutherville, Md. 21093, Counsel for Protestants; Howard and Frances Smith, 518 Forest Drive, Lutherville, Md., 21093, Protestants-Appellants; and John W. Hessian, Esq., Court House, Towson, Md. 21204, People's Counsel for Baltimore County, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

Jane Holmes
County Board of Appeals of Baltimore County, Rm. 200, Court House, Towson, Md. 21204 494-3180

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to David B. Abramoff, Esq. and James K. Archibald, Esq., 1800 Mercantile Bank & Trust Bldg., Baltimore, Md. 21201, Counsel for Petitioner; Good Humor Corp., c/o D. W. St. Clair, 800 Sylvan Ave., Englewood Cliffs, N. J. 07632, Petitioner; John C. Young, Esq., Asst. General Counsel, Good Humor Corp., 800 Sylvan Ave., Englewood Cliffs, N. J. 07632; Marvin I. Singer, Esq., 10 E. Eager St., Baltimore, Md. 21202, Counsel for Protestants; George Canaras, Esq., 1700 Charmoith Road, Lutherville, Md. 21093, Counsel for Protestants; Howard and Frances Smith, 518 Forest Drive, Lutherville, Md. 21093, Protestants-Appellants; and John W. Hessian, Esq., Court House, Towson, Md. 21204, People's Counsel for Baltimore County, on this 5th day of December, 1983.

Jane Holmes
Jane Holmes
County Board of Appeals of Baltimore County

IN THE MATTER OF THE APPLICATION OF GOOD HUMOR CORPORATION FOR VARIANCES FROM §255.2 (243.2 and 243.1) OF THE BALTIMORE COUNTY ZONING REGULATIONS W/S GREENSPRING DRIVE 2350' S. OF TIMONIUM ROAD 8th DISTRICT	:	BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY NO. 83-158-A

: : : :

with applicable law and said Regulations.

11. And for such other and further reasons as may be assigned at the hearing in this case.

12. And Appellants respectfully request the right to present additional evidence and testimony at the hearing in this case.

WHEREFORE, Appellants respectfully request that the Order of the County Board of Appeals dated November 7, 1983 be reversed.

MARVIN I. SINGER
10 East Eager Street
Baltimore, Maryland 21202
(301) 752-1122

GEORGE T. CANARAS
1700 Charmuth Road
Timonium, Maryland 21093
(301) 252-0582

Attorneys for Appellants

I HEREBY CERTIFY that on this 5th day of December, 1983, a copy of the aforegoing Petition For Appeal was mailed to JAMES K. ARCHIBALD, ESQUIRE and DAVID B. ABRAMOFF, ESQUIRE, 1800 Mercantile Bank and Trust Building, 2 Hopkins Plaza, Baltimore, Maryland 21201, Attorneys for Good Humor Corporation; and to JOHN W. HESSIAN, ESQUIRE, Peoples Counsel, Court House, Towson, Maryland 21204, and a copy served upon the County Board of Appeals.

Marvin I. Singer

494-3180

County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

HEARING ROOM #218

September 19, 1983

CHANGE OF
NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 83-158-A — GOOD HUMOR CORPORATION

W/S GREENSPRING DRIVE 2350' S. OF TIMONIUM ROAD

8th DISTRICT

VARIANCES - Side yd. setback 30' in lieu of 50'
Front " " 55' in lieu of 75'

5/12/83 - D.Z.C. GRANTED w/restrictions

Scheduled for hearing on Wednesday, November 9, 1983 at 10 a.m. has been CHANGED at the request of counsel for the Protestants (in court) and by agreement of counsel has been

REASSIGNED FOR: THURSDAY, OCTOBER 27, 1983 at 10 a.m.

cc: David B. Abramoff, Esq. — Counsel for Petitioner
James K. Archibald, Esq. — " " " "
Good Humor Corp. (D.W.St.Clair) — Petitioner
Marvin I. Singer, Esq. — Counsel for Protestants
George Canaras, Esq. — " " "
Howard and Frances Smith — Protestants
Jonn W. Hessian, III, Esq. — People's Counsel
John C. Young, Esq., Asst. General Counsel, Good Humor Corp., New Jersey
Mr. N. E. Gerber
Mr. J. G. Hoswell
Mrs. J. Jung
Mr. J. E. Dyer
Mr. A. E. Jablon

Edith T. Eisenhart, Adm. Secretary

14/29/83-M-394

IN THE MATTER OF THE APPLICATION OF GOOD HUMOR CORPORATION FOR ZONING VARIANCES On property located on the west side of Greenspring Drive, 2,350' south of Timonium Road - 8th District

* BEFORE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* No. 83-158-A
*

* * * * * * * * *

ORDER FOR APPEAL BY APPELLANTS, HOWARD SMITH AND FRANCES SMITH

MR. CLERK:

Please enter an appeal on behalf of the Appellants, Howard Smith and Frances Smith, from the Order of the County Board of Appeals of Baltimore County in the above-entitled case dated November 7, 1983.

MARVIN I. SINGER
10 East Eager Street
Baltimore, Maryland 21202
(301) 752-1122

GEORGE T. CANARAS
1700 Charmuth Road
Timonium, Maryland 21093
(301) 252-0582

Attorneys for Appellants

I HEREBY CERTIFY that on this 5th day of December, 1983, a copy of the aforegoing Order for Appeal by Appellants, Howard Smith and Frances Smith was mailed to JAMES K. ARCHIBALD, ESQUIRE and DAVID B. ABRAMOFF, ESQUIRE, 1800 Mercantile Bank and Trust

Rec'd. 12/5/83 10:00

Building, 2 Hopkins Plaza, Baltimore, Maryland 21201, Attorneys for Good Humor Corporation; and to JOHN W. HESSIAN, ESQUIRE, Peoples Counsel, Court House, Towson, Maryland 21204, and a copy served upon the County Board of Appeals.

Marvin I. Singer

RECEIPT IS HEREBY ACKNOWLEDGED this 5th day of December, 1983 of a copy of the foregoing Order for Appeal.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

By June Holmes

494-3180

County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

(Hearing Room #218)

August 30, 1983

NOTICE OF POSTPONEMENT and REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 83-158-A — GOOD HUMOR CORPORATION

W/S Greenspring Dr. 2350' S. Timonium Rd.

8th District

Variances - Side yard setback of 30' in lieu of 50'
Front yard setback of 55' in lieu of 75'

5/12/83 - D.Z.C. GRANTED w/restrictions

Scheduled for hearing on Wednesday, October 19, 1983 at 10 a.m. has been POSTPONED at the request of Counsel for the Petitioner (witness unavailable) and has been

REASSIGNED FOR: WEDNESDAY, NOVEMBER 9, 1983 at 10 a.m.

cc: David B. Abramoff, Esq. — Counsel for Petitioner
James K. Archibald, Esq. — " " "
Good Humor Corp. (D.W. St. Clair) — Petitioner
Marvin I. Singer, Esq. — Counsel for Protestants
George Canaras, Esq. — " " "
Howard and Frances Smith — Protestants
John W. Hessian, III, Esq. — People's Counsel
Mr. N. E. Gerber
Mr. J. G. Hoswell
Mrs. J. Jung
Mr. J. E. Dyer
Mr. A. E. Jablon
John C. Young, Esquire, Asst. General Counsel, Good Humor Corp., New Jersey

Edith T. Eisenhart, Adm. Secretary

County Board of Appeals of Baltimore County
Room 200 Court House (Hearing Room #218)
Towson, Maryland 21204
(301) 494-3180

June 22, 1983

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 83-158-A — GOOD HUMOR CORPORATION

W/S Greenspring Dr., 2350' S of Timonium Rd.

8th District

Variances - Side yard setback of 30' in lieu of 50',
Front yard setback of 55' in lieu of 75'.

5/12/83 - D.Z.C.'s Order GRANTED w/restrictions

ASSIGNED FOR: WEDNESDAY, OCTOBER 19, 1983, at 10 a.m.

cc: David B. Abramoff, Esq. — Counsel for Petitioner
James K. Archibald, Esq.
Good Humor Corp. — Petitioner
Marvin I. Singer, Esq. — Counsel for Protestants
George Canaras, Esq. — " " "
Howard and Frances Smith — Protestants
J. W. Hessian, Esq. — People's Counsel
N. Gerber
J. Hoswell
J. Jung
J. Dyer
W. Hammond

June Holmes, Secy.

VENABLE, BAETJER AND HOWARD
ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1800 MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
BALTIMORE, MARYLAND 21201
(301) 244-7400
TELECOPIER (301) 752-7540
WRITER'S DIRECT NUMBER IS 244-7622
WASHINGTON, D.C. OFFICE: VENABLE, BAETJER, HOWARD & CIVILETTI, SUITE 704, 1201 PENNSYLVANIA AVENUE, N.W., WASHINGTON, D.C. 20004 (202) 783-4300
RICHARD H. VENABLE (1939-1970) EDWIN G. BAETJER (1968-1975) CHARLES McH. HOWARD (1977-1982)

August 29, 1983

Mr. William T. Hackett
Chairman
County Board of Appeals
Baltimore County
Room 200
Courthouse
Towson, Maryland 21204

Re: Good Humor Corporation
Case No. 83-158-A
Case No. 83-126-V

Dear Mr. Hackett:

In accordance with County Board of Appeals Rule 2(b), we hereby submit our written request for a postponement of the hearing in the above-referenced cases presently scheduled for October 19, 1983, at 10:00 a.m.

The reason for this request is that one of our witnesses will not be available on October 19. I understand from Edith Eisenhardt that the first available day in which we can be rescheduled is Wednesday, November 9, 1983, at 10:00 a.m. I would appreciate your rescheduling the aforesaid cases for that day and time.

Thank you for your assistance.

Very truly yours,

David B. Abramoff

DBA/lcw
cc: Marvin I. Singer, Esq.
George Canaras, Esq.
J. W. Hessian, Esq.
John Young, Esq.
James K. Archibald, Esq.
Cynthia Hahn, Esq.

Rec'd 8-30-83 9:10 am

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

83-158-A

District 8th — Date of Posting June 11, 1983
Posted for: Appeal
Petitioner: Good Humor Corp.
Location of property: W/S Greenspring Drive 2350 S of Timonium Road
Location of Signs: West side of Greenspring Drive, approx. 2350' south of Timonium Road
Remarks:
Posted by: [signature] (Signature) — Date of return: June 24 1983
Number of Signs: 1

LAW OFFICES
MARVIN I. SINGER
TEN EAST EAGER
BALTIMORE, MARYLAND 21202

TELEPHONE
752-1122
685-1111
AREA CODE 301

September 13, 1983

County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

Re: Good Humor Corporation
Case No. 83-126-V

Good Humor Corporation
Case No. 83-158-A

Gentlemen:

I have received notification that the above-entitled cases have been reassigned for a hearing on Wednesday, November 9, 1983. I must request a postponement from that date, as I have a previously assigned trial in the Circuit Court for Baltimore City on that date (Briscoe, et al v. Sun Cab Company, et al - No. 82209818). I shall await word from you as to the new dates.

Thank you for your kind consideration in this matter.

Sincerely,

Marvin I. Singer

MIS:mfm

cc: Cynthia M. Hahn, Esq.
James K. Archibald, Esq.
David B. Abramoff, Esq.
Thomas J. Bollinger, Esq.
John W. Hessian, III, Esq.
George T. Canaras, Esq.

Rec'd 9-15-83
10 am

6/22/83 - Following were notified of hearing set for Wed., Oct. 19, 1983, at 10 a.m.:

David Abramoff and James Archibald
Good Humor Corp.
Marvin Singer
George Canaras
Howard and France Smith
J. Hessian
N. Gerber
J. Hoswell
J. Jung
J. Dyer
W. Hammond

Postponed 8-30-83

8/30/83 - Above notified of POSTPONEMENT and REASSIGNMENT for WEDNESDAY, NOV. 9, 1983 at 10 am

Charge 9/19/83

9/19/83 - Above notified of CHANGE of hearing date to THURSDAY, OCTOBER 27, 1983 at 10 a.m.

County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

November 7, 1983

Marvin I. Singer, Esq.
10 E. Eager Street
Baltimore, Md. 21202

Re: Case No. 83-158-A
Good Humor Corporation

Dear Mr. Singer:

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

Very truly yours,

June Holmen, Secretary

Encl.
cc: David B. Abramoff, Esq.
James K. Archibald, Esq.
Good Humor Corp.,
c/o D. W. St. Clair
George Canaras, Esq.
Howard and Frances Smith
John C. Young, Esq.,
Good Humor Corp.
J. W. Hessian, Esq.
N. Gerber
J. Hoswell
J. Jung
J. Dyer
A. E. Jablon

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

December 5, 1983

Marvin I. Singer, Esq.
10 E. Eager St.
Baltimore, Md. 21202

Re: Case No. 83-158-A
Good Humor Corporation

Dear Mr. Singer:

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the zoning appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

June Holmen, Secretary

Encls.
cc: George T. Canaras, Esq.
Howard and Frances Smith

December 5, 1983

BILLED TO: Marvin I. Singer, Esq.
10 E. Eager St.
Baltimore, Md. 21202

Cost of documents in Case No. 83-158-A . . . . . $ 31.00

Good Humor Corporation
W/s Greenspring Dr., 2350' S of
Timonium Rd. - 8th District

MAKES CHECKS PAYABLE TO: Baltimore County, Md.

REMIT TO: County Board of Appeals
Rm. 200, Court House,
Towson, Md. 21204

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

December 5, 1983

David B. Abramoff, Esq.
James K. Archibald, Esq.
1800 Mercantile Bank & Trust Bldg.
2 Hopkins Plaza
Baltimore, Md. 21201

Re: Case No. 83-156-A
Good Humor Corp.

Gentlemen:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June Holmen, Secretary

Encl.
cc: Good Humor Corp.
John C. Young, Esq.
J. W. Hessian, Esq.
N. Gerber
J. Hoswell
J. Jung
J. Dyer
A. Jablon

County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

December 13, 1983

Marvin I. Singer, Esquire
10 East Eager Street
Baltimore, Maryland 21202

Re: Case No. 83-158-A
Good Humor Corp.

Dear Mr. Singer:

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

Very truly yours,

Edith T. Eisenhart,
Adm. Secretary

Encl.

cc: David B. Abramoff
James K. Archibald
D. W. St. Clair
George Canaras, Esquire
Howard and Frances Smith
John C. Young
John W. Hessian, III, Esquire
N. E. Gerber
J. G. Hoswell
Jean M. H. Jung
J. E. Dyer
A. Jablon

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

January 11, 1984

David B. Abramoff, Esq.
James K. Archibald, Esq.
1800 Mercantile Bank & Trust Bldg.
2 Hopkins Plaza
Baltimore, Md. 21201

Re: Case No. 83-158-A
Good Humor Corp.

Gentlemen:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June Holmen, Secretary

Encl.
cc: Good Humor Corp.
John C. Young, Esq.
Benjamin Bronstein, Esq.
Peter M. Zimmerman, Esq.
N. Gerber
J. Hoswell
J. Jung
J. Dyer
A. Jablon

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

January 11, 1984

Marvin I. Singer, Esq.
10 E. Eager St.
Baltimore, Md. 21202

Re: Case No. 83-158-A
Good Humor Corp.

Dear Mr. Singer:

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the zoning appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

Jane Holman
Jane Holman, Secretary

Encls.
cc: George T. Canaras, Esq.
Howard and Frances Smith
file

IN THE MATTER OF THE APPLICATION OF GOOD HUMOR CORPORATION FOR ZONING VARIANCES On property located on the west side of Greenspring Drive, 2,350' south of Timonium Road - 8th District	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
Howard and Frances Smith, Protestants-Appellants	:	Misc. Doc. No. 16
Zoning File No. 83-158-A	:	Folio No. 29 File No. 83-M-394

: :

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William R. Evans, Joanne L. Suder, and Diane K. Vincent, 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, Benjamin Bronstein, Esq., #200, 102 W. Pennsylvania Ave., Towson, Md. 21204, Attorney for the Contract Purchaser; David B. Abramoff, Esq. and James K. Archibald, Esq., 1800 Mercantile Bank & Trust Bldg, Baltimore, Md. 21201, Counsel for Petitioner; Good Humor Corp., c/o D. W. St. Clair, 800 Sylvan Ave., Englewood Cliffs, N.J. 07632, Petitioner; John C. Young, Esq., Asst. General Counsel. Good Humor Corp., 800 Sylvan Ave., Englewood Cliffs, N. J. 07632; Marvin I. Singer, Esq., 10 E. Eager St., Balto., Md. 21202, Counsel for Protestants; George Canaras, Esq., 1700 Charmouth Road, Lutherville, Md. 21093, Counsel for Protestants; Howard and Frances Smith, 518 Forest Dr., Lutherville, Md. 21093, Protestants-Appellants; and Peter Max Zimmerman, Esq., Court House, Md. 21204, Asst. People's Counsel for Baltimore County, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

Jane Holman
Jane Holman
County Board of Appeals of Baltimore County
Rm. 200, Court House, Towson, Md. 21204
494-3180

Good Humor Corporation
Case No. 83-158-A

2.

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to Benjamin Bronstein, Esq., #200, 102 W. Pennsylvania Ave., Towson, Md. 21204, Atty. for the Contract Purchaser; David B. Abramoff, Esq. and James K. Archibald, Esq., 1800 Mercantile Bank & Trust Bldg., Balto., Md. 21201, Counsel for Petitioner; Good Humor Corp., c/o D. W. St. Clair, 800 Sylvan Ave., Englewood Cliffs, N. J. 07632, Petitioner; John C. Young, Esq., Asst. General Counsel, Good Humor Corp., 800 Sylvan Ave., Englewood Cliffs, N. J. 07632; Marvin I. Singer, Esq., 10 E. Eager St., Balto., Md. 21202, Counsel for Protestants; George Canaras, Esq., 1700 Charmouth Rd., Lutherville, Md. 21093, Counsel for Protestants; Howard and Frances Smith, 518 Forest Drive, Lutherville, Md. 21093, Protestants-Appellants; and Peter Max Zimmerman, Esq., Court House, Towson, Md. 21204, Asst. People's Counsel for Baltimore County, on this 11th day of January, 1984.

Jane Holman
Jane Holman
County Board of Appeals of Baltimore County

LAW OFFICES
MARVIN I. SINGER, P.A.
TEN EAST EAGER
BALTIMORE, MARYLAND 21202

TELEPHONE
752-1122
(301) 332
AREA CODE 301

January 13, 1984

Clerk, Circuit Court for
Baltimore County
County Courts Building
Towson, Maryland 21204

Re: Smith v. Good Humor Corporation
Misc. Doc. No. 16
Folio No. 29
File No. 83-M-394

Gentlemen:

Please file in the above-entitled case the enclosed Petition for Appeal from the Amended Order of the County Board of Appeals.

Very truly yours,

Marvin I. Singer

MIS:mfm
Enclosure

cc: James K. Archibald, Esq.
David B. Abramoff, Esq.
Peoples' Counsel
County Board of Appeals

Rec'd. 1/16/84
mad

IN THE MATTER OF THE APPLICATION OF GOOD HUMOR CORPORATION FOR ZONING VARIANCES On Property Located on the West Side of Greenspring Drive, 2,350' South of Timonium Road 8th District	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
Howard and Frances Smith, Protestants-Appellants	:	Misc. Doc. No. 16
Zoning File No. 83-158-A	:	Folio No. 29 File No. 83-M-394

: :

CERTIFIED COPIES OF PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William R. Evans, Joanne L. Suder, and Diana K. Vincent, 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

October 29, 1982	Petition of Good Humor Corporation for variances from Sec. 255.2 (243.2 & 243.1) to permit a side yard setback of 30' in lieu of the required 50' and a front yard setback of 55' in lieu of the required 75'.
" " "	Order of the Zoning Commissioner directing advertisement and posting of property - date of hearing set for Jan. 13, 1983, 11 A.M.
December 23, 1982	Certificate of Publication in newspaper - filed
December 23, 1982	Certificate of Posting of property - filed
December 20, 1982	Comments of Baltimore County Director of Planning - filed
December 30, 1983	Comments of Baltimore County Zoning Plans Advisory Committee - filed
January 13, 1983	At 11 a.m. hearing held on petition by Deputy Zoning Commissioner
May 12, 1983	Order of Deputy Zoning Commissioner GRANTING variances with restrictions

IN THE MATTER OF THE APPLICATION OF GOOD HUMOR CORPORATION FOR ZONING VARIANCES On property located on the west side of Greenspring Drive, 2,350' south of Timonium Road - 8th District	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
Howard and Frances Smith, Protestants-Appellants	*	Misc. Doc. No. 16 Folio No. 29
Zoning File No. 83-158-A	*	File No. 83-M-394

* * * * * * * * *

PETITION FOR APPEAL

Now come the Appellants, Howard Smith and Frances Smith, parties before the County Board of Appeals, by their attorneys, Marvin I. Singer and George T. Canaras, pursuant to Rules B1-B13 inclusive of the Maryland Rules of Procedure, and respectfully state:

1. That the Amended Order of the County Board of Appeals dated December 13, 1983, purporting to amend and change the prior Order of the Board dated November 7, 1983, was unsupported by any evidence and was entered without the benefit of any hearing, or prior notice that an Amended Order would be passed.

2. That the entry of said Amended Order by the Board was illegal, improper, invalid, arbitrary, capricious and discriminatory.

3. That the granting of said Amended Order by the Board was without a sufficient finding of fact and lacks a proper legal basis.

4. That the said Amended Order is illegal and invalid as having been entered more than thirty (30) days after entry of

the original Order which it purported to amend.

5. That said Amended Order is illegal and invalid in that the Board entered said Order at a time subsequent to the filing of an Appeal from the original Order.

6. That the County Board of Appeals was without jurisdiction to pass the Amended Order, as the case was then pending in the Circuit Court for Baltimore County as a result of an Appeal having been filed from the original Order.

7. And for such other and further reasons as may be assigned at the hearing in this case.

WHEREFORE, Appellants respectfully request that the Amended Order of the County Board of Appeals dated December 13, 1983 be stricken or reversed.

/s/
MARVIN I. SINGER
10 East Eager Street
Baltimore, Maryland 21202
(301) 752-1122

/s/
GEORGE T. CANARAS
1700 Charmuth Road
Lutherville, Maryland 21093
(301) 252-0582

Attorneys for Appellants

I HEREBY CERTIFY that on this 13th day of January, 1984, a copy of the aforegoing Petition for Appeal was mailed to James K. Archibald, Esquire and David B. Abramoff, Esquire, 1800 Mercantile Bank and Trust Building, 2 Hopkins Plaza, Baltimore, Maryland

21201, Attorneys for Good Humor Corporation; to Peoples' Counsel, Courthouse, Towson, Maryland 21204; and to the County Board of Appeals, Room 200, Courthouse, Towson, Maryland 21204.

/s/
Marvin I. Singer

GOOD HUMOR CORPORATION
Case No. 83-158-A

2.

June 10, 1983	Order for Appeal to C.B. of A. from Order of Deputy Zoning Commissioner
October 27, 1983	Hearing on appeal before County Board of Appeals
November 7, 1983	Order of County Board of Appeals ordering that the variances be GRANTED, subj. to restrictions.
December 5, 1983	Order for Appeal filed in the Circuit Ct. for Baltimore County by Marvin I. Singer, Esq. and George T. Canaras, Esq., on behalf of Appellants.
December 5, 1983	Petition to accompany Order for Appeal filed in the Circuit Ct. for Baltimore County
December 5, 1983	Certificate of Notice sent to all interested parties.
December 13, 1983	Amended Order of the County Board of Appeals
January 5, 1984	Petition for Extension of Time to file Transcript
January 10, 1984	Order for Appeal filed in the Circuit Ct. for Baltimore County by Marvin I. Singer, Esq. and George T. Canaras, Esq., on behalf of Appellants
January 11, 1984	Certificate of Notice sent to all interested parties
January 16, 1984	Petition to accompany Order for Appeal filed in the Circuit Ct. for Baltimore County
January 19, 1984	Transcript of testimony filed
	Petitioner's Exhibit #1 - File (in Board of Appeal's Office)
	" " #2 - 1976 Zoning Map
	Complainants' Exhibit #1 - Letter of 9/24 from Crain to Bennett
	For Id. - Proposed use plat 10/10/83
January 30, 1984	Record of proceedings filed in the Circuit Ct. 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 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 whenever directed to do so by this Court.

Respectfully submitted,

June Holmen
County Board of Appeals of Baltimore County

Howard Smith & Frances Smith

In the matter of Good Humor Corp.

Vs.

County Bd. of Appeals

IN THE CIRCUIT COURT

FOR

BALTIMORE COUNTY

Docket 16 Folio 29

Case No. 83-M-394

NOTICE OF FILING OF RECORD

TO: Marvin I. Singer
10 E. Eager St.
Balto. Md. 21202

George T. Canaras
1700 Charmuth Rd.
Timonium, Md. 21093

June Holmen
Co. Bd. of Appeals
Mail Stop 2205

In accordance with Maryland Rule of Procedure B12, you are notified that the record in the above entitled case was filed on Jan. 30, 1984.

Clerk

FILED JAN 30 1984

CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
April 25, 1984

TO:
Marvin I. Singer, Esq.
George T. Canaras, Esq.
James K. Archibald, Esq.
Thomas J. Bollinger, Esq.
County Board of Appeals of Balto. Co.

RE: No. 83-M-394 - Matter of Good Humor Corp. - Order of Dismissal

HEARING DATE: Wednesday, July 11, 1984, @ 9:30 a.m.
ON THE FOLLOWING: Appeals: 3 day
Motion Concerning Jurisdiction of the appeal date.

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to confirm calendars. Claim of not receiving notice will not constitute reason for postponement.

POSTPONEMENTS: If the above date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS WITHIN 15 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments — Joyce Grimm — 494-3487.

SETTLEMENT CONFERENCES: All counsel must secure the attendance of all parties necessary to effect a binding settlement, including clients and insurance representatives. THERE WILL BE NO EXCEPTIONS PER ORDER OF JUDGE FRANK E. CHIONE. Please direct all inquiries to the attention of John Adams.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if at a later of satisfaction is filed prior to trial.

Judge Chione — 494-3486
Assignment Commissioner — Joyce Grimm — 494-3487
Calendar Clerk — Linda Lewis — 494-3488
Docket Clerk — Marcia Gray — 494-3489
Assistant Docket Clerk — Frances Carter Tyson

CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
February 2, 1984

TO:
Marvin I. Singer, Esq.
George T. Canaras, Esq.
James K. Archibald, Esq.
Thomas J. Bollinger, Esq.
County Board of Appeals of Balto. Co.

RE: NO. 83-M-394 - MATTER OF GOOD HUMOR CORP. - ORDER OF APPEALS OF BOARD OF APPEALS

HEARING DATE: Tuesday, May 1, 1984, @ 9:30 a.m.
ON THE FOLLOWING: Appeals: 3 day

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to confirm calendars. Claim of not receiving notice will not constitute reason for postponement.

POSTPONEMENTS: If the above date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS WITHIN 15 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments — Joyce Grimm — 494-3487.

SETTLEMENT CONFERENCES: All counsel must secure the attendance of all parties necessary to effect a binding settlement, including clients and insurance representatives. THERE WILL BE NO EXCEPTIONS PER ORDER OF JUDGE FRANK E. CHIONE. Please direct all inquiries to the attention of John Adams.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if at a later of satisfaction is filed prior to trial.

Judge Chione — 494-3486
Assignment Commissioner — Joyce Grimm — 494-3487
Calendar Clerk — Linda Lewis — 494-3488
Docket Clerk — Marcia Gray — 494-3489
Assistant Docket Clerk — Frances Carter Tyson

VENABLE, BAETJER AND HOWARD
ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1800 MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
BALTIMORE, MARYLAND 21201
(301) 244-7400
TELECOPIER (301) 752-7540
WASHINGTON, D.C. OFFICE
VENABLE, BAETJER, HOWARD & CIVILETTI
SUITE 704
1301 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004
(202) 783-4300

RICHARD H. VENABLE (1930-1961)
EDWIN S. BAETJER (1958-1968)
CHARLES MAX HOWARD (1875-1948)

WRITER'S DIRECT NUMBER IS
244-7661

March 28, 1984

Marvin I. Singer, Esquire
10 East Eager Street
Baltimore, Maryland 21202

Re: In re The Application of Good Humor Corporation For Zoning Variance - Misc. Doc. No. 16, Folio No. 29 File No. 83-M-394

Dear Mr. Singer:

This will confirm our telephone conversation earlier today, in which you graciously agreed to a ten (10) day extension of time for Good Humor to submit its opposition memorandum in the above-captioned appeal.

Thank you for your assistance in this matter.

Sincerely,

Peter E. Keith

PEK:vc

cc: John W. Hessian, Esquire
Baltimore County Board of Appeals
James K. Archibald, Esquire
Court File
George T. Canaras, Esquire

LAW OFFICES
MARVIN I. SINGER, P. A.
TEN EAST EAGER
BALTIMORE, MARYLAND 21202

TELEPHONE
752-1122
685-1111
AREA CODE 301

July 6, 1984

Clerk, Circuit Court for
Baltimore County
County Courts Building
Towson, Maryland 21204

Re: Howard Smith and Frances Smith v. County Board of Appeals of Baltimore County
Misc. Doc. No. 16
Folio No. 29
File No. 83-M-394

Gentlemen:

Please file the enclosed Order for Dismissal in the above-entitled case.

Yours very truly,

Marvin I. Singer

MIS:mfm
Enclosure

cc: James K. Archibald, Esq.
Peter Max Zimmerman, Esq.
Thomas J. Bollinger, Esq.
George T. Canaras, Esq.
Assignment Office

FILED JUL 09 1984

RECEIVED
COUNTY BOARD OF APPEALS
JUL -9 P 2:02

HOWARD SMITH and FRANCES SMITH	*	IN THE
Appellants	*	CIRCUIT COURT
v.	*	FOR
COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	BALTIMORE COUNTY
Appellee	*	Civil Action
IN THE MATTER OF THE APPLICATION OF GOOD HUMOR CORPORATION FOR ZONING VARIANCES On property located on the west side of Greenspring Drive, 2,350' south of Timonium Road - 8th District	*	Misc. Doc. No. 16 Folio No. 29 File No. 83-M-394

* * * * * * * * * *

ORDER FOR DISMISSAL

Mr. Clerk:

Please dismiss the above-entitled proceedings.

MARVIN I. SINGER
10 East Eager Street
Baltimore, Maryland 21202
(301) 752-1122

Attorney for Appellants

FILED JUL 09 1984

7/17/84 - Dismissed by Judge Chiones per phone conversation with court clerk as of 7/11/84

LAW OFFICES
MARVIN I. SINGER
TEN EAST EAGER
BALTIMORE, MARYLAND 21202

TELEPHONE
752-1122
685-1111
AREA CODE 301

June 10, 1983

Zoning Commissioner
County Office Building
Towson, Maryland 21204

HAND DELIVERED

Re: Petition for Variance
W/S of Greenspring Dr., 2,350' S of Timonium Rd. - 8th Election District
Good Humor Corporation - Petitioner
No. 83-158-A (Item No. 92)

Dear Sir:

On behalf of Howard Smith and Frances Smith, 518 Forest Drive, Lutherville, Maryland 21093, please enter an appeal to the County Board of Appeals from the Order entered in the above-entitled case on May 12, 1983. Enclosed is my check in payment of the filing costs.

Thank you for your kind attention to this matter.

Sincerely,

Marvin I. Singer

MIS:mfm
Enclosure

cc: James K. Archibald, Esq.,
Attorney for Good Humor Corporation
George T. Canaras, Esq.

JUN 10 8 AM
FINANCE DEPARTMENT

RE: PETITION FOR VARIANCES : BEFORE THE ZONING COMMISSIONER
W/S of Greenspring Dr., 2,350' S of Timonium Rd., 8th District : OF BALTIMORE COUNTY

GOOD HUMOR CORPORATION, Petitioner : Case No. 83-158-A

:::::::

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefor, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman
Deputy People's Counsel

John W. Hessian, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 4th day of January, 1983, a copy of the foregoing Order was mailed to David B. Abramoff, Esquire, 1800 Mercantile Bank & Trust Bldg., 2 Hopkins Plaza, Baltimore, Maryland 21201, Attorney for Petitioner; and John C. Young, Esquire, Assistant General Counsel, Good Humor Corporation, 800 Sylvan Ave., Englewood Cliffs, N. J. 07632.

John W. Hessian, III

EXHIBIT A

The existing 10,000 square feet building was constructed in 1973 and has been continually used since that date as a cold storage warehouse. The building was constructed with all applicable Baltimore County permits and with an approved site plan. Later, it was discovered that the required rear setback was fifty (50) feet from the rear property line rather than the thirty (30) feet assumed at the time the building was designed and constructed. As seen on the plat submitted herewith, only one corner of the building representing a small portion of the building violates the fifty (50) feet setback rule. The failure to grant this variance would substantially interfere with Petitioner's use and enjoyment of the building and would result in substantial injury and unreasonable hardship to Petitioner. Since the original site plan was approved by the Baltimore County Office of Planning and Zoning and the building thereafter constructed in accordance with the approved plan, it would be unreasonable not to grant the variance. Moreover, the granting of the variance will be in strict harmony with the spirit and interest of the zoning regulations and will not cause injury to public health, safety and general welfare.

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

February 9, 1983

David B. Abramoff, Esquire
1800 Mercantile Bank and Trust Building
2 Hopkins Plaza
Baltimore, Maryland 21201

Re: Petition for Variances
W/S Greenspring Dr., 2,350' S of Timonium Road
Good Humor Corporation - Petitioner
Case No. 83-158-A

Dear Mr. Abramoff:

This is to advise that the continued hearing which was scheduled for February 15, 1983 has now been rescheduled to March 10, 1983 at 9:30 A.M., in Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

Very truly yours,

William E. Hammond
Zoning Commissioner

WEH:aj

cc: George Canares, Esquire
1700 Charmouth Road
Lutherville, Maryland 21093

Marvin Singer, Esquire
10 East Eager Street
Baltimore, Maryland 21202

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

February 3, 1983

David B. Abramoff, Esquire
1800 Mercantile Bank and Trust Building
2 Hopkins Plaza
Baltimore, Maryland 21201

Re: Petition for Variances
W/S Greenspring Dr., 2,350' S of Timonium Road
Good Humor Corporation - Petitioner
Case No. 83-158-A

Dear Mr. Abramoff:

This is to advise that the continued hearing on the above entitled matter has been set for February 15, 1983 at 10:30 A.M., in Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

If there are any questions, please advise.

Very truly yours,

William E. Hammond
Zoning Commissioner

WEH:aj

cc: George Canares, Esquire
10 East Eager Street
Baltimore, Maryland 21202

Marvin Singer, Esquire
1700 Charmouth Road
Lutherville, Maryland 21093

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

May 12, 1983

James K. Archibald, Esquire
1800 Mercantile Bank & Trust Building
2 Hopkins Plaza
Baltimore, Maryland 21201

RE: Petition for Variances
W/S of Greenspring Dr., 2,350' S of Timonium Rd. - 8th Election District
Good Humor Corporation - Petitioner
NO. 83-158-A (Item No. 92)

Dear Mr. Archibald:

I have this date passed my Order in the above captioned matter in accordance with the attached.

Very truly yours,

JEAN M.H. JUNG
Deputy Zoning Commissioner

JMHJ/mc

Attachments

cc: Marvin Singer, Esquire
10 East Eager Street
Baltimore, Maryland 21202

George Canares, Esquire
1700 Charmouth Road
Lutherville, Maryland 21093

John W. Hessian, III, Esquire
People's Counsel

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

June 10, 1983

James K. Archibald, Esquire
David B. Abramoff, Esquire
1800 Mercantile Bank & Trust Building
2 Hopkins Plaza
Baltimore, Maryland 21201

Re: Petition for Variances
W/S of Greenspring Dr., 2,350' S of Timonium Road
Good Humor Corporation - Petitioner
Case No. 83-158-A

Dear Sirs:

Please be advised that an appeal has been filed by Marvin I. Singer, Esquire, on behalf of protestants Howard and Frances Smith, from the decision rendered by the Deputy Zoning Commissioner of Baltimore County in the above referenced matter.

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

Very truly yours,

William E. Hammond
Zoning Commissioner

WEH:aj

cc: George Canares, Esquire
1700 Charmouth Road
Lutherville, Maryland 21093

John W. Hessian, III, Esquire
People's Counsel

December 15, 1982

David B. Abramoff, Esquire
1800 Mercantile Bank & Trust Building
2 Hopkins Plaza
Baltimore, Maryland 21201

NOTICE OF HEARING

Re: Petition for Variances
W/S of Greenspring Dr., 2,350' S of Timonium Rd.
Good Humor Corporation - Petitioner
Case #83-158-A

TIME: 11:00 A.M.

DATE: Thursday, January 13, 1983

PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

cc: Mr. Marvin Singer
and
Mr. George Canares
1700 Charmouth Road
Timonium, Maryland 21093

NG COMMISSIONER OF
TIMORE COUNTY

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 111282
DATE 12-29-82 ACCOUNT R-01-615-000
AMOUNT 100.00
RECEIVED FROM
FOR
VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

December 30, 1982

David B. Abramoff, Esquire
1800 Mercantile Bank & Trust Building
2 Hopkins Plaza
Baltimore, Maryland 21201

Re: Petition for Variances
W/S Greenspring Dr., 2,350' S of Timonium Rd.
Good Humor Corporation - Petitioner
Case #83-158-A

Dear Mr. Abramoff:

This is to advise you that $71.30 is due for advertising and posting of the above property.

Please make the check payable to Baltimore County, Maryland, and remit to Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Very truly yours,

E. HAMMOND
mmissioner

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 113056
DATE 1/14/83 ACCOUNT R-01-615-000
AMOUNT $71.30
RECEIVED FROM Venable, Baetjer and Howard
FOR Advertising & Posting Case #83-158-A (Good Humor Corporation)
VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 85138

DATE Dec. 19, 1983 ACCOUNT 01.712

AMOUNT $31.00

RECEIVED FROM Marvin I. Singer, Esq., 10 E. Fayette St. (21202)

FOR Case No. 83-158-A, Good Humor Corporation

B 8032••••••31001a $138F

VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 117642

DATE June 10, 1983 ACCOUNT R-01-615-000

AMOUNT $80.00

RECEIVED FROM Marvin I. Singer, Esquire

FOR Appeal fee on Case #83-158-A

B 0246••••••80001b $108A

VALIDATION OR SIGNATURE OF CASHIER

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

83-158-A

District 8th Date of Posting 12-23-82
Posted for: Variance
Petitioner: Good Humor Corporation
Location of property: W/S of Greenspring Drive, 2350' S of Timonium Road
Location of Signs: West side of Greenspring Drive approx. 2,350' south of Timonium Road
Remarks:
Posted by N. J. Anett (Signature) Date of return 12-30-82
Number of Signs: 1

83-158-A

CERTIFICATE OF PUBLICATION

TOWSON, MD. Dec 22 1982

THIS IS TO CERTIFY, that the annexed advertisement was published in THE TOWSON TIMES, a weekly newspaper distributed in Towson, Baltimore County, Md., once a week for 1 successive weeks, the first publication appearing on the 22nd day of Dec 1982.

THE TOWSON TIMES
Marianne Angelella

Cost of Advertisement, $ 40.05

PETITION FOR VARIANCES
8th Election District
ZONING: Petition for Variances
LOCATION: West side of Greenspring Drive, 2,350 ft. South of Timonium Road
DATE & TIME: Thursday, January 13, 1983 at 11:00 A.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Variances to permit a side yard setback of 30 ft. in lieu of the required 50 ft. and a front yard setback of 55 ft. in lieu of the required 75 ft.

The Zoning Regulation to be excepted as follows: Section 255.2 (243.2 & 243.1) - minimum side and front yard setbacks in an M.L. zone

All that parcel of land in the Eighth District of Baltimore County

Being the property of Good Humor Corporation, as shown on plat plan filed with the Zoning Department.

Hearing Date: Thursday, January 13, 1983 at 11:00 A.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

By Order Of
WILLIAM E. HAMMOND
Zoning Commissioner
of Baltimore County

Dec. 22

83-158-A

CERTIFICATE OF PUBLICATION

TOWSON, MD., December 23, 1982

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in one time successive weeks before the 13th day of January, 1983, the publication appearing on the 23rd day of December 1982.

THE JEFFERSONIAN,
Manager.

Cost of Advertisement, $ 26.25

E. F. RAPHEL & ASSOCIATES
Registered Professional Land Surveyors
201 COURTLAND AVENUE
TOWSON, MARYLAND 21204

OFFICE: 828-3600 RESIDENCE: 771-4606

September 20, 1982

DESCRIPTION TO ACCOMPANY VARIANCE FOR
GOOD HUMOR SITE - GREENSPRING DRIVE, TIMONIUM

BEGINNING for the same at a point on the west side of Greenspring Drive, said point being distant 2350 feet ± southerly, measured along the west side of Greenspring Drive, from the intersection of the west side of Greenspring Drive and the center line of Timonium Road, thence running on the west side of Greenspring Drive and binding on the land of Good Humor, the following courses and distances: 1) by a curve to the right with a radius of 699.44 feet for a distance of 50.04 feet, thence leaving the west side of Greenspring Drive; 2) S80°31'48" W 276.15 feet; 3) S9°32'42" E 311.72 feet; 4) S80°31'48" W 580.00 feet; 5) N22°11'56" E 425.00 feet; and 6) N80°31'48" E 634.47 feet to the place of beginning.

CONTAINING 4.206 acres of land, more or less.

BEING part of that parcel of land which by deed dated July 2, 1964 and recorded among the Land Records of Baltimore County in Liber R.R.G. 4330, folio 457, was conveyed by F. Christian Anderson et al to Good Humor Corporation.

STATE OF MARYLAND
No. 2246
REGISTERED
LAND SURVEYOR

Eugene F. Raphel
E. F. Raphel & Associates
Registered Land Surveyor #2246

PETITION FOR VARIANCES

8th Election District

ZONING: Petition for Variances

LOCATION: West side of Greenspring Drive, 2,350 ft. South of Timonium Road

DATE & TIME: Thursday, January 13, 1983 at 11:00 A.M.

PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Variances to permit a side yard setback of 30 ft. in lieu of the required 50 ft. and a front yard setback of 55 ft. in lieu of the required 75 ft.

The Zoning Regulation to be excepted as follows:
Section 255.2 (243.2 & 243.1) - minimum side and front yard setbacks in an M.L. zone

All that parcel of land in the Eighth District of Baltimore County

Being the property of Good Humor Corporation, as shown on plat plan filed with the Zoning Department.

Hearing Date: Thursday, January 13, 1983 at 11:00 A.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

BY ORDER OF
WILLIAM E. HAMMOND
ZONING COMMISSIONER
OF BALTIMORE COUNTY

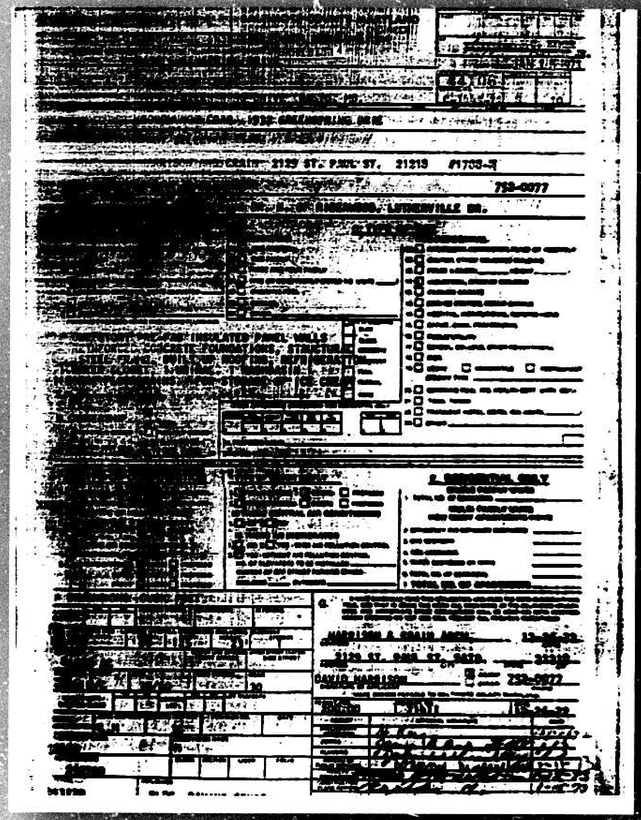


EXHIBIT 5

DPL 103

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND LICENSES
GERARD J. DIETZ, DIRECTOR
OFFICE OF THE BUILDINGS ENGINEER
COUNTY OFFICE BUILDING, TOWSON, MD. 21204

№ 7426

Permission is hereby granted to:

Name Good Humor Co.
Address 1932 Greenspring Dr.
Balto. Zip

to use and occupy the land and/or buildings described and located as follows on Permit No. 44106 1932 Greenspring Dr. (Address)

8-10 (City, Town, State, Election District) — (Lot No.) — (Block No.) — 08.07.045.740 (Account No.)

Subdivision name or acreage description

for the purpose set forth below:
Cold Storage Bldg.
Use for which permit is granted (describe fully)

Occupancy Load

Date 11-14-72 Issued by the Buildings Engineer C. Elmer Bryant Jr.

Fee Paid

NOTE: This permit must be conspicuously displayed and not removed from the premises for which it was issued. It is not transferable. It must be shown upon demand to any authorized representative of the Buildings Engineer, Division of Building Inspection. This permit is good only for the use and to the extent described above. Changes in use, any extension thereof, and changes in occupancy require a new permit.

Good Humor — EXHIBIT 6 — Form 2313

INTER-OFFICE CORRESPONDENCE

RECEIVED OCT 5 1973

To: David St. Clair — Subject: Timonium Cold Storage Warehouse

From: Allan E. Bennett — Date: October 4, 1973

I would like to take this opportunity to fill you in on an interesting situation that has occurred in Timonium, Maryland.

As you most probably are aware, we have built a new cold storage warehouse on property previously purchased and adjoining our existing sales branch.

This building was built according to plans and specifications and with a valid Baltimore County building permit. In fact, at the present time, we have a valid certificate of occupancy. However, while checking on some other property adjacent to this property, which we were looking into for possible purchase, it was noted that the zoning line crossed a corner of our property. This particular line put our building in an administrative violation.

The Baltimore County Zoning Department has requested our architect and engineer to petition them for a zoning variance in order to keep their records straight and prevent an embarrassing situation from occurring sometime in the future.

The above brings us to the attached forms which we are asked to sign so that this zoning variance may be processed and put to bed.

I would appreciate it if you would get the proper signatures and return the forms to me so that I may send them to the architect with one slight correction on the drawing, which is attached for your information.

If you have any questions, or wish any additional explanation, please contact me at your convenience.

AEB:dm

A E Bennett
Manager-Engineering Services

CC: W. Clark

PETITIONER'S EXHIBIT 6

EXHIBIT 1

[illegible] 24, 1972

Mr. Allan E. Bennett
Good Humor Corporation
[illegible] Dutch Lane
Fairfield, New Jersey 07006

RE: Warehouse Room
Greenspring Plant
Timonium, Maryland

Dear Mr. Bennett:

A meeting was held today at the office of the Baltimore County Zoning Department concerning the interests for the subject project. A 30' set back from the rear property line plus yard will be required under the current zoning requirements.

Another setting [illegible] the property line [illegible] to permit us to move the [illegible] the [illegible]

I have contacted [illegible] Engineers and Surveyors, [illegible] the subject project. We [illegible] August 30, [illegible] survey, which will locate the corners of the property in question, provide all existing topographic information, [illegible] fence in order that we will know exactly what usable space will be left after the side yards are allowed for the proposed building.

With the above information, our representative can then determine the actual size of the [illegible] building.

Very truly yours,

HARRISON AND CRAIN

By Stanley L. Crain

SLC/dh

PETITIONER'S EXHIBIT 1

COPY

STANLEY L. CRAIN, A. I. A.
ARCHITECT
2129 ST. PAUL STREET
BALTIMORE MD 21218

EXHIBIT 2

September 1, 1972

Mr. Allan E. Bennett
Good Humor Corporation
40 New Dutch Lane
Fairfield, New Jersey 07006

RE: Warehouse Room
Greenspring Plant
Timonium, Maryland
Subj: (Survey)

Dear Allan:

In accordance with our telephone conversation today, I have instructed the surveyor, Raphel and Associates, to proceed with the survey work for the subject project. This work will be billed the Good Humor Corporation on a time and material basis with a top fee not to exceed $400.00.

I spoke again this morning to Mr. Raphel and he promised this office that work would begin on Wednesday, September 6, 1972.

I have checked with Mr. Burns of the Baltimore County Zoning Department and he has advised this office that we could design a retaining wall along the property line and use the 30' buffer strip for driveways and/or parking areas. The only other requirement that Baltimore County insists upon is to provide a 4' high redwood screening fence along the residential use property.

The preliminary drawing will include the utilization of this space.

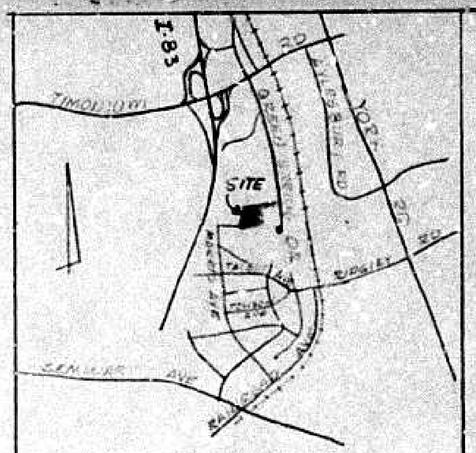
Very truly yours,

HARRISON AND CRAIN

By Stanley L. Crain

SLC/dh
cc: Raphel and Associates.

PETITIONER'S EXHIBIT 2



EXIST. ZONE - ML-IM
EXIST. USE UNDER CONSTRUCTION

2350' TO TIMONIUM ROAD

GREEN SPRING DRIVE

BEGINNING

N 80° 31' 48" E 634.47

S 80° 31' 48" W 276.15

EXISTING ML-IM ZONE
EXISTING DR 5.5 ZONE

EXISTING ML-IM ZONE

EXISTING DR 5.5 ZONE

Macadam Paving

EXIST. PAINT SHOP

EXISTING BUILDING

Cone

Cone & Macadam Paving

Existing COLD STORAGE BUILDING

Macadam

EXISTING ML-IM BUILDING

311.72

580.00

S 80° 31' 48" W

N 25° 11' 56" E 1260'

10' CHAIN LINK FENCE

Blacktopping

MACADAM

FOREST DRIVE

EXIST. ZONE - ML-IM
EXIST. USE MANUFACTURING

GENERAL NOTES

AREA OF PROPERTY	± 20.6 AC.
EXISTING ZONE	ML-IM
PROPOSED ZONE	ML-IM

PROPERTY IS SERVED BY PUBLIC WATER & SEWER

O.L.P. - EXIST. LIGHTS

PARKING DATA

AREA OF EXISTING BUILDINGS = 21,132#
1 SPACE/200# = 21,132/200 = 106 SPACES

NO. SPACES REQUIRED = 106 SPACES
NO. SPACES PROVIDED 186 SPACES

VARIANCE REQUESTED FROM SECT. 255.2

1. SUB. SECT. 243.2 - TO ALLOW A SIDE YARD OF 30' INSTEAD OF THE REQUIRED 50'
2. SUB. SECT. 243.3 - TO ALLOW A REAR YARD OF 30' INSTEAD OF THE REQUIRED 50'
3. SUB. SECT. 243.1 - TO ALLOW A FRONT YARD OF 55' INSTEAD OF THE REQUIRED 75'

E. F. Raphel

PLAT TO ACCOMPANY ZONING PETITION
PROPERTY OF
GOOD HUMOR

8TH ELECT. DIST. BALTO. CO. MD.
SCALE 1" = 50' OCT. 3, 1982

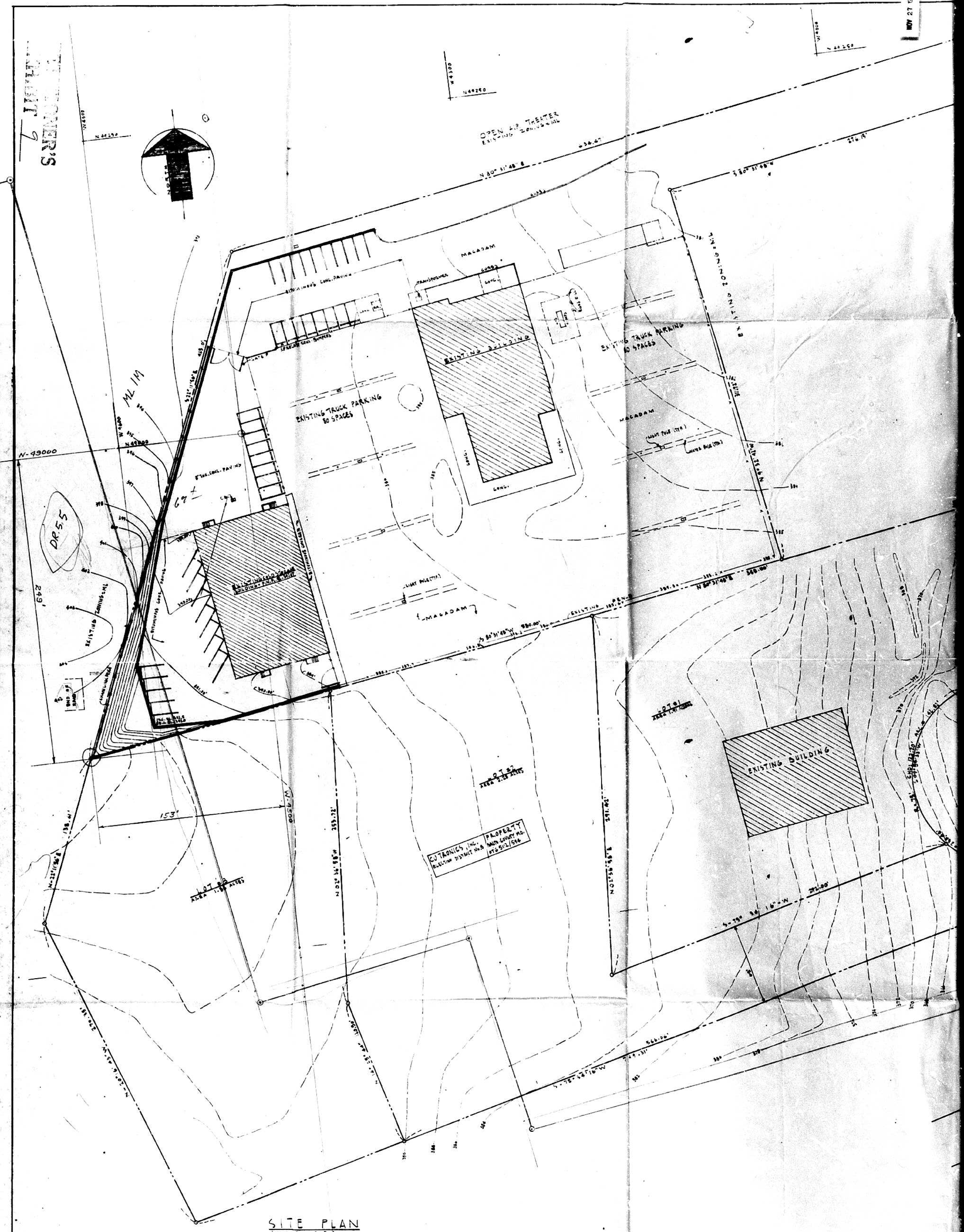
Revised plan filed #92 [illegible]

E. F. RAPHEL & ASSOC.
REGISTERED PROFESSIONAL LAND SURVEYORS
201 COURTLAND AVENUE
TOWSON, MARYLAND 21204

REV. DEC. 17, 1982

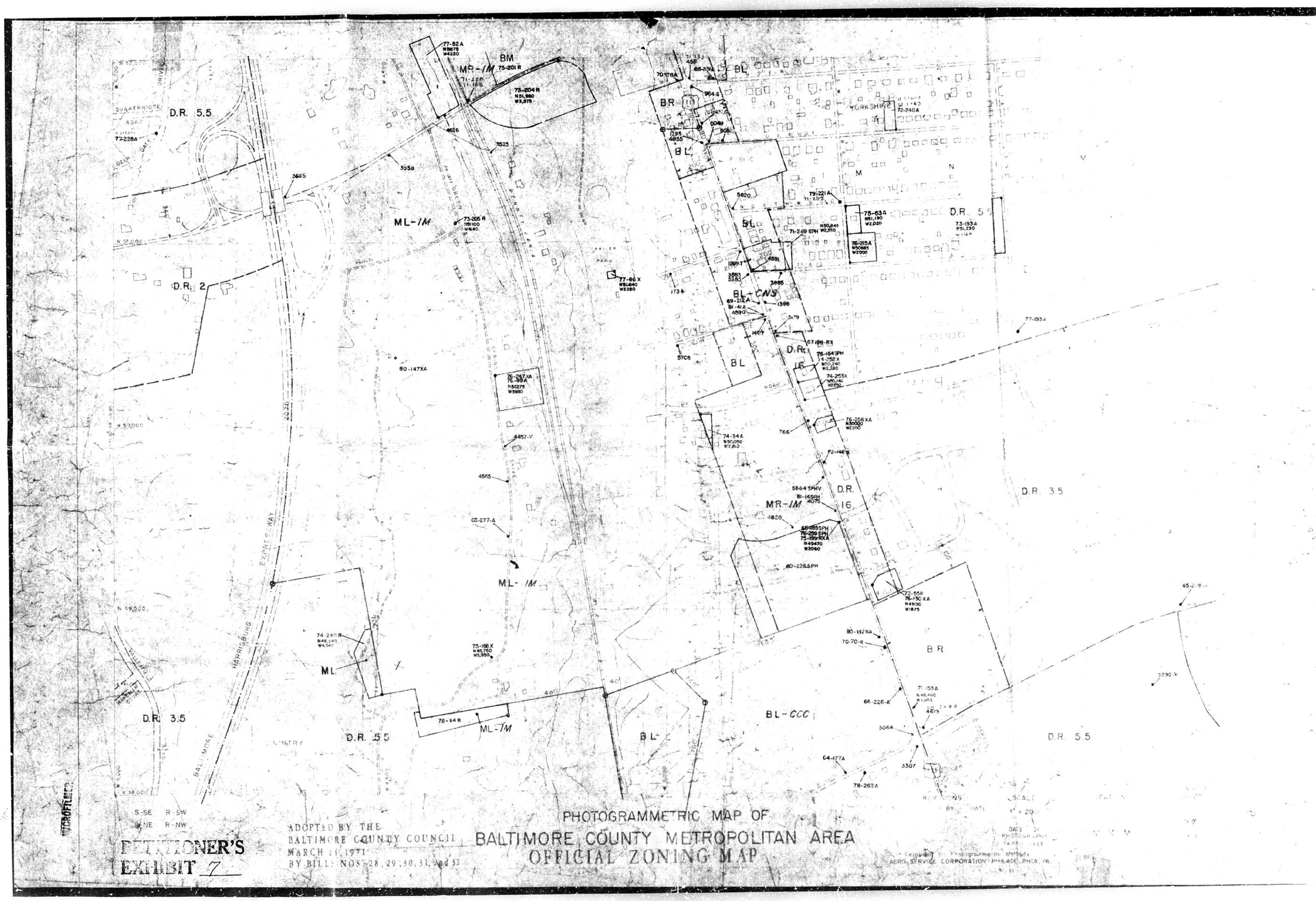
#771

David Ashenoff v. Zoning Plans Advisory Board



SITE PLAN
SCALE 1"=30'

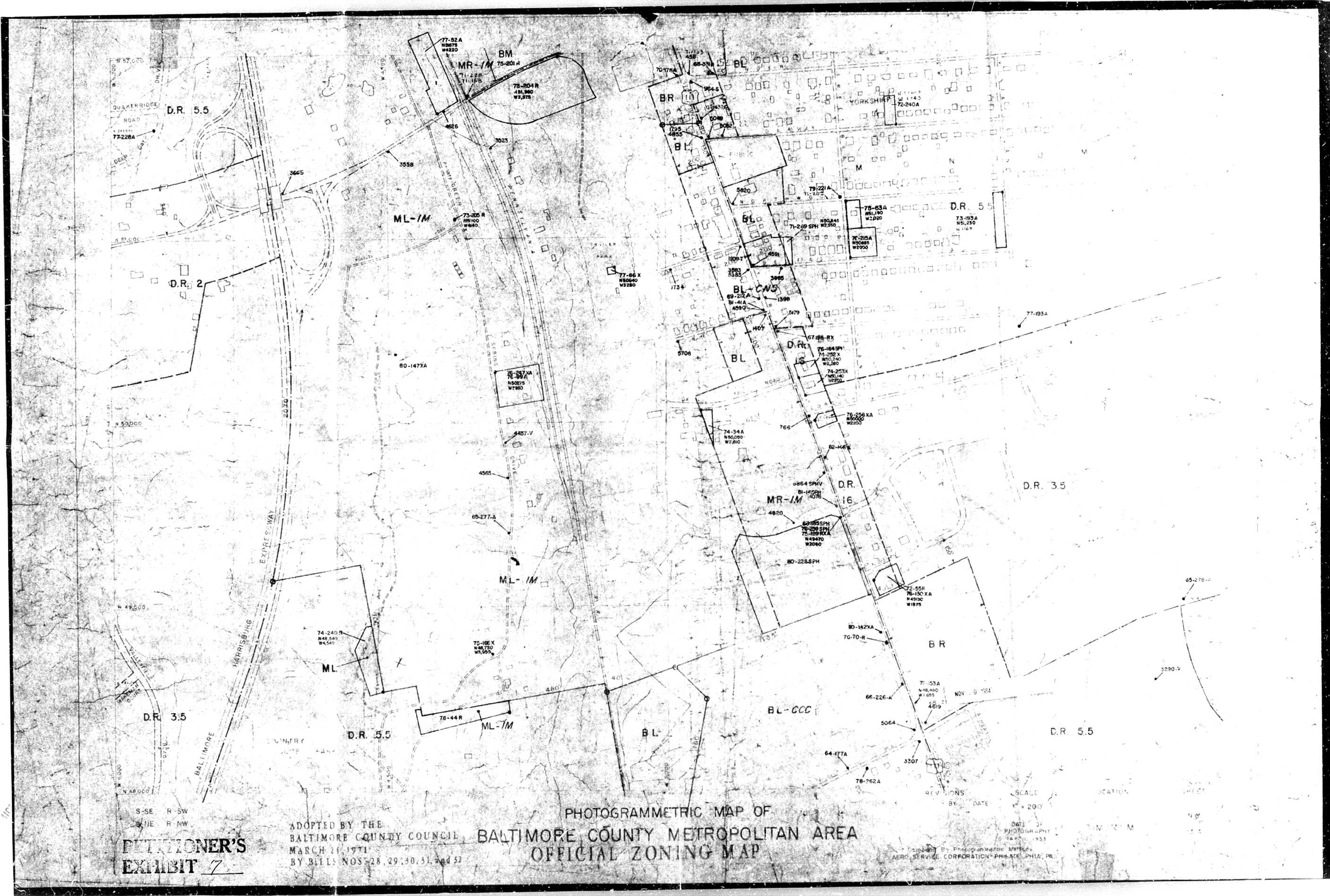
SITE PLAN
PROPOSED SITE
FOR DAY HOME LOCATION
1212 GREENSPRING DRIVE
TIMONIUM, MARYLAND 21093
A-1
GREENSPRING DRIVE
RIDERWOOD LUTHERVILLE DRIVE
(NOT OPEN)
EXISTING BUILDING
EXISTING TRUCK PARKING
80 SPACES
EXISTING ZONING LINE
OPEN AIR THEATER
EXISTING ZONING
MACADAM
EXISTING MACADAM PAVING
SETBACK LINE
CO TECHNICS INC.
PLOT PLAN
MASTER PLAN NO
N-U8570
W-U3625
N-U4230
W-U4230
N-U8570
W-U5470
N-U4230
W-U4340
N-U4230
W-U3445

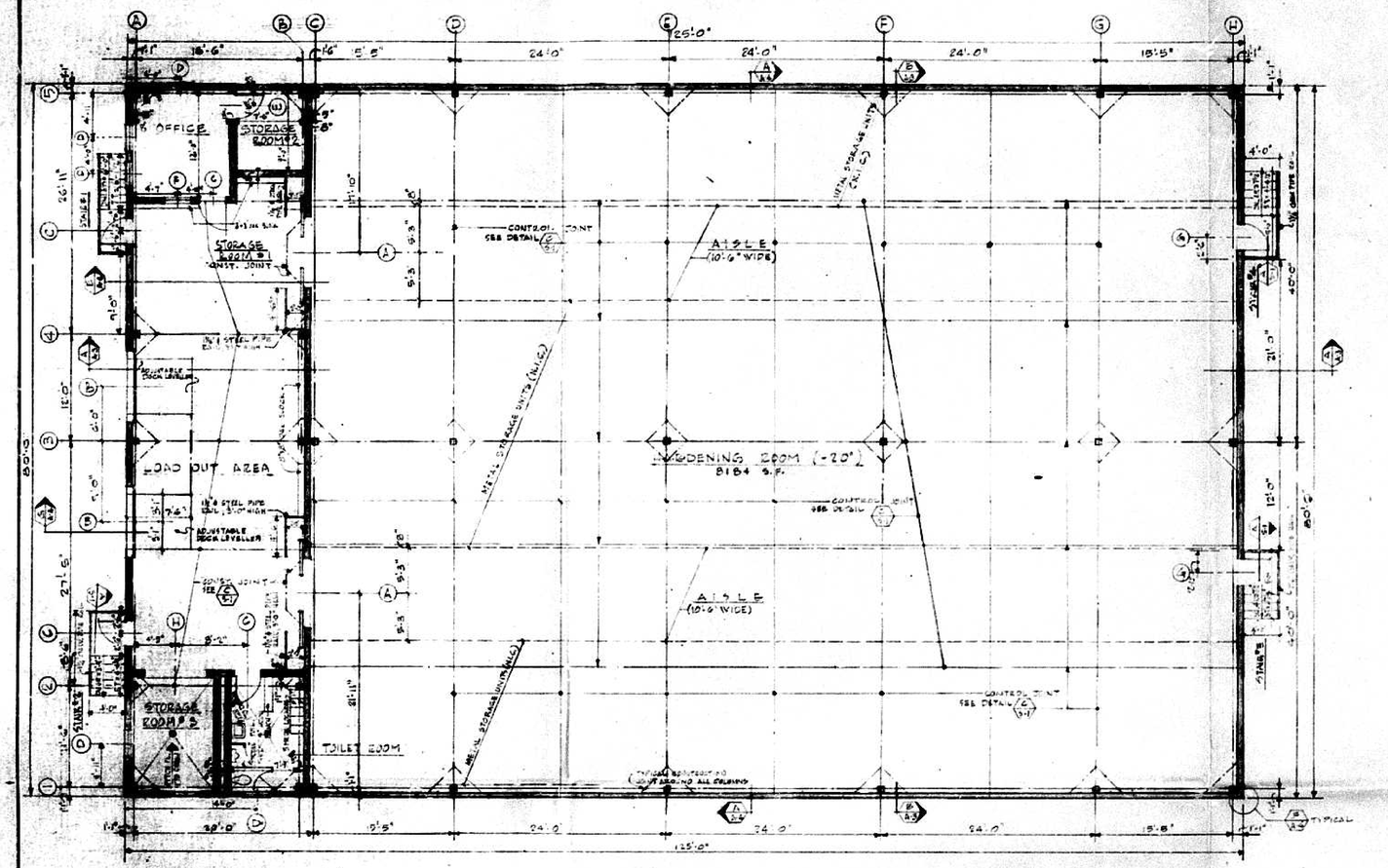


PETITIONER'S
EXHIBIT 7

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA

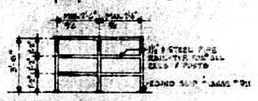
PETITIONER'S
EXHIBIT 8


D.R. 5.5
D.R. 2
D.R. 3.5
D.R. 16
D.R. 5.5
ML-IM
MR-IM
BL
BR
BL-CNS
BL-CCC
ML
QUAKER RIDGE ROAD
DEEP CAVE
FORT GREEN
PENNSYLVANIA
SPRING
YORKSHIRE
EXPRESSWAY
HARRISBURG
BALTIMORE
VALLEY VIEW
COUNTRY
S-SE R-SW
N-NE R-NW
PETITIONER'S EXHIBIT 7
ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
MARCH 26, 1971
BY BILLS NOS. 28, 29, 30, 31, and 32
PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA
OFFICIAL ZONING MAP
REVISIONS
BY
DATE
SCALE
1" = 200'
LOCATION
SHEET
DATE OF PHOTOGRAPHY
APRIL 1955
COMPILED BY PHOTOGRAMMETRIC METHODS
AERO SERVICE CORPORATION PHILADELPHIA, PA.



FIRST FLOOR PLAN

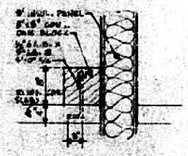
SCALE 1/8" = 1'-0"



TYPICAL STEEL PIPE RAILING-INTERIOR

SCALE 3/4" = 1'-0"

NOTE: HOLD RAILING 2" BACK FROM FREEZER DOOR OPENING

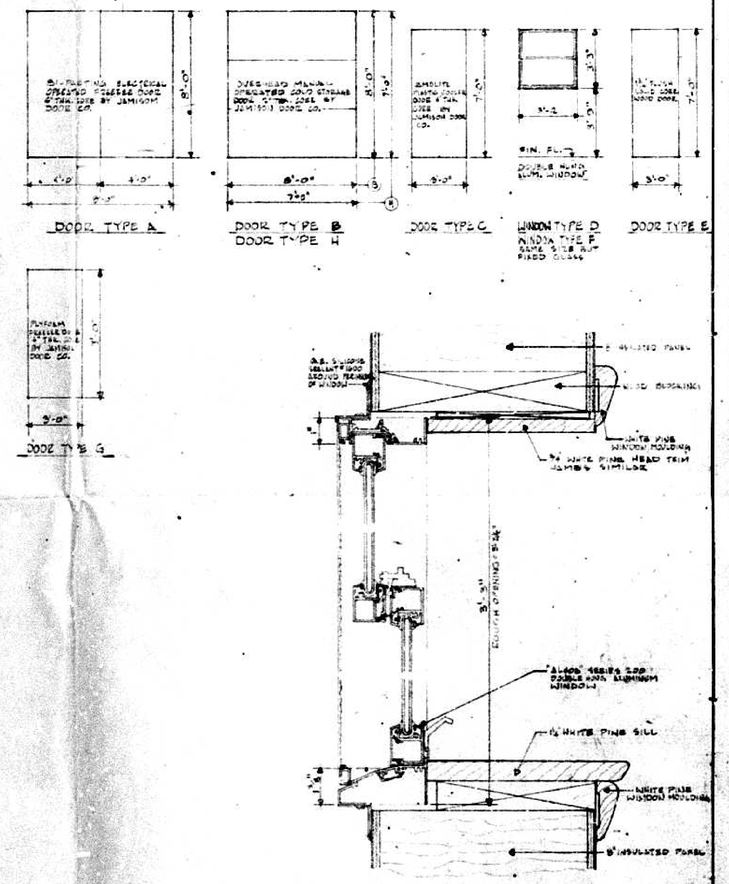


SECTION THRU OAK BLOCK

PETITIONER'S EXHIBIT 11

ROOM FINISH SCHEDULE					
ROOM	FLOOR	BASE	WALLS	CEILING	REMARKS
COLD STORAGE	CONCRETE	——	PREFAB PANELS	PREFAB PANELS	HARDENER ON CONC. SLAB
TOILET RM.	CERAMIC TILE	CERAMIC TILE	CERAMIC TILE	TRANSITE PANELS	ONLY ALUM. FACING ON PANELS, ADHERE TILE TO PLYWOOD
STORAGE RM. #3	CONCRETE	——	PREFAB PANELS	PREFAB PANELS	
STORAGE RM. #1	CONCRETE	——	PREFAB PANELS	PREFAB PANELS	HARDENER ON CONC. SLAB
LOAD OUT AREA	CONCRETE	——	PREFAB PANELS	PREFAB PANELS	HARDENER ON CONC. SLAB
STORAGE RM. #2	VINYL ASB. TILE	VINYL	PREFAB PANELS	TRANSITE PANELS	
OFFICE	VINYL ASB. TILE	VINYL	WOOD PANELING	TRANSITE PANELS	

NOTES:
1. ALL TRANSITE PANEL CEILINGS SHALL BE 8'-0" ABOVE FINISH FLOOR.



SECTION THRU DOUBLE-HUNG WINDOW

SCALE 3/8" = 1'

Revision No. 2 February 26, 1973

1. Re-located windows from storage room #3 to office.
2. Revised office lay-out to increase room size.

REVISION NO. 1 DATED: 1/26/73

1. First floor plan has been changed to incorporate columns #1-5 and A-H in lieu of columns 1-8 and columns A-J. Control joints in floor slab layout have been changed to fit into the new column arrangement.
2. Stair No. 1 has been changed to be similar to Stairs #2, #3 and #4.
3. Landscape Plan had been deleted from this drawing.

CONTRACT SET

FLOOR PLAN, ROOM FINISH AND DOOR SCHEDULES, AND DETAILS

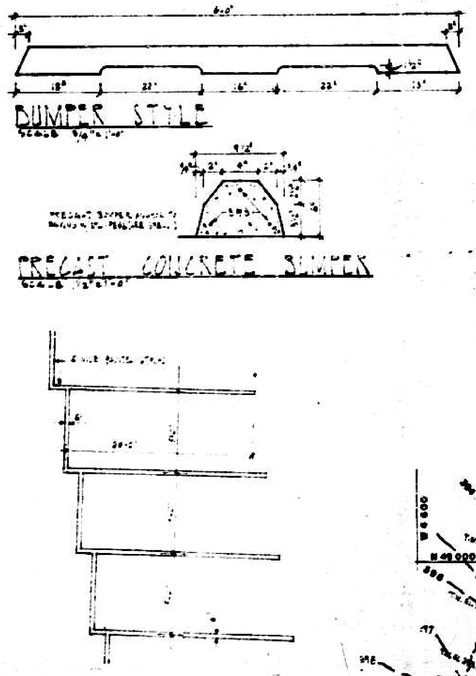
PROPOSED COLD STORAGE BUILDING
FOR THE GOOD HUMOR CORPORATION
1932 GREENSPRING DRIVE
TIMONIUM, MARYLAND 21093

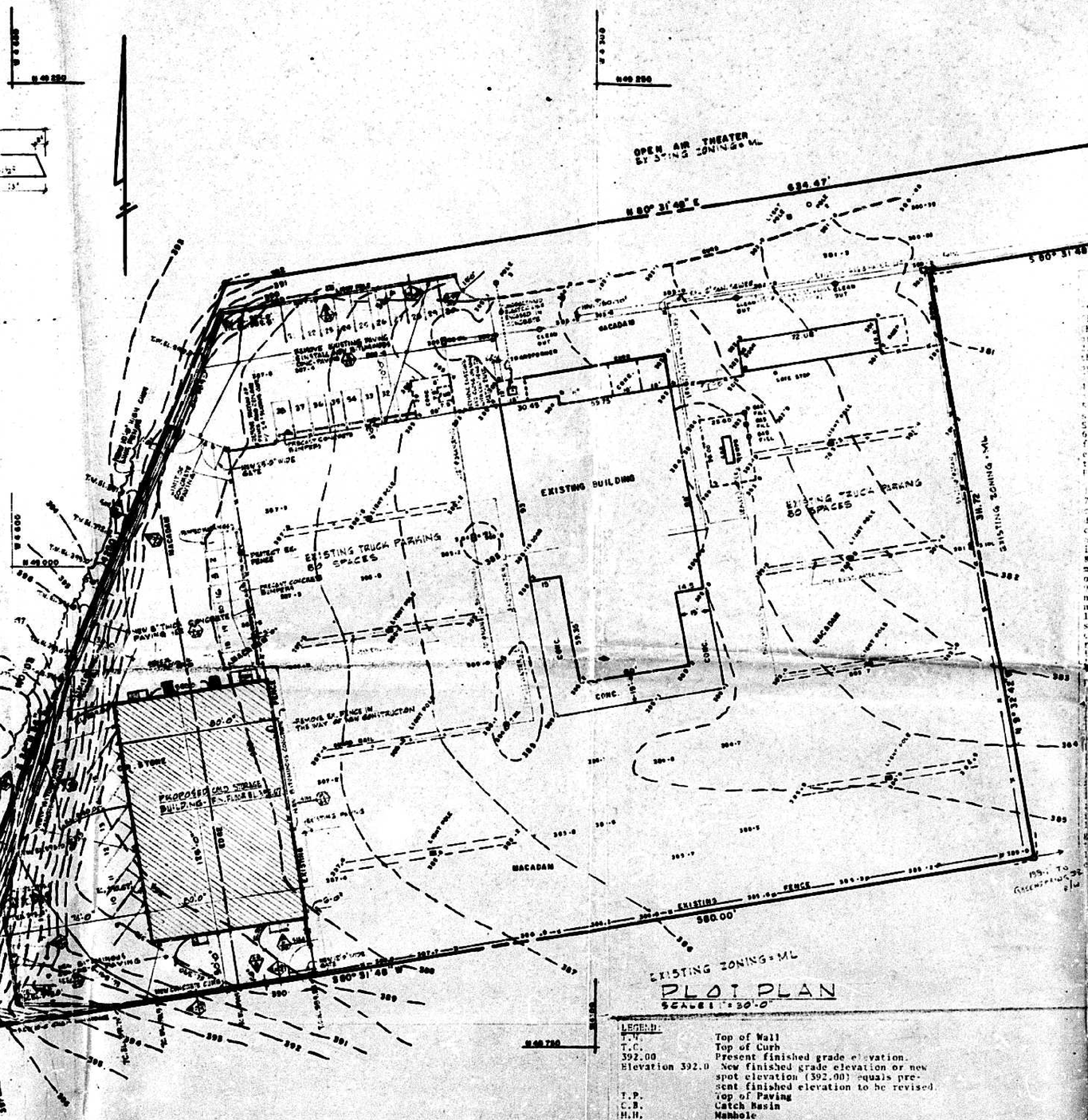
HARRISON & CRAIN
ARCHITECTS
BALTIMORE MARYLAND

BOARD OF EXAMINERS AND REGISTRATION OF ARCHITECTS
154-S
1788-R
STATE OF MARYLAND

Richard J. Carroll, Structural Engineer
Zvi Grodzinsky, Mechanical Engineer
H.H. White, Electrical Engineer

36-72
DATE 12-12-72
SHEET 2 OF 9
A-2





PLOT PLAN
SCALE: 1" = 30'-0"

GENERAL NOTES

1. All utilities shown hereon have been located in the field or are as shown on the best available records; their actual locations should be verified in the field prior to construction.
2. All coordinates shown hereon are in the Maryland the survey control system established and maintained by Baltimore County.
3. Area of property equal [illegible].
4. Existing zoning of property, [illegible] property zoning M.L.
5. Existing and proposed use of property, [illegible] storage of ice cream product, frozen [illegible] storage.
6. This plot plan has been prepared from information furnished by the owner and shows all existing [illegible], existing buildings elevations, parking, and [illegible] the general development plan has been prepared by E. F. Raphel & Associates, registered professional Land Surveyors, 201 Courtland Avenue, Towson, Maryland 21204.
7. Obstructions shown on this drawing are for the convenience of the contractor only and the owner does not warrant or guarantee the correctness or completeness of the information given. The contractor must verify such information to his own satisfaction.
8. Existing inlets or manholes which remain shall be modified to suit new concrete paving, construction of of new bituminous concrete paving.
9. All present work of an electrical or mechanical nature shall be raised or lowered as required by the new grades of the new roadways.
10. All existing work or new work which has been installed and which may become damaged during the course of construction, shall be replaced and such replacement shall be subject to the applicable divisions of the specifications.
11. The Contractor shall procure, coordinate responsible for all submittals as may be required for the preparation of all shop drawings.
12. Underground utilities or obstructions are shown in this drawings for the convenience of the Contractor the County does not warrant or guarantee the correctness or the completeness of the information. The Contractor must verify all such information to his own satisfaction.
13. Building Height: 27'-0" High Roof, 14'-0" Low roof.
14. 8th Election District, Baltimore County, Maryland.
15. Parking provided for 199 cars, typical parking 17, 9'-0" x 20'-0".
16. Existing building area equals 11,152 S.F.
17. New building area equals 10,000 S.F. Total building Area Equals 21,152 S.F. Lot coverage equals 12%.
18. All property adjacent to property lines shall be graded at a slope of not more than 2 feet horizontal to one foot vertical.
19. 10'-0" high fence with new gates shall be provided adjacent to property line. See site for location.

PETITIONER'S EXHIBIT 3

EXHIBIT 3

LEGEND:

T.W.	Top of Wall
T.C.	Top of Curb
392.00	Present finished grade elevation.
Elevation 392.0	New finished grade elevation or new spot elevation (392.00) equals present finished elevation to be revised.
T.P.	Top of Paving
C.B.	Catch Basin
M.H.	Manhole
N.I.C.	Not in Contract
S.W.	Storm Water
Inv.	Invert
Ex. or Exist.	Existing
X.H.C.I.	Extra Heavy Cast Iron
Exist. Contours	----392'----------
New Contours	EL. 392
RCCP	Reinforced Concrete Pipe
B.C.	Bottom of curb at Finished Grade.
	NEW CONCRETE CURB OR CONCRETE WALL
	NEW 10'-0" HIGH CHAIN LINK FENCE
	EXISTING CHAIN LINK FENCE

PLANS APPROVED
OFFICE OF PLANNING & ZONING
BY [signature]
DATE [illegible]
BY [illegible] ZONING COMMISSIONER
DATE
C-1445-72

SCHEDULE OF DRAWINGS

A-1 Plot Plan
A-2 Floor Plan, Room Finish and Door Schedule, Landscape Plan and Details
A-3 Elevations and Sections
A-4 Wall Sections and Details
A-5 Exterior Site Details
S-1 Foundation Plan, Sections, and Details
S-2 Roof Framing Plan, Details, and Notes
M-1 Mechanical Site and Floor Plan, Schedules, and Details
E-1 Electric Site Plan, Floor Plan and Schedules

"GOOD HUMOR SITE"

TIMONIUM MARYLAND

8th ELECT. DIST. SCALE: 1" = 30'

SEPT. 12, 1972

BID SET

PROPOSED COLD STORAGE BUILDING
FOR THE GOOD HUMOR CORPORATION
1632 GREENSPRING DRIVE
TIMONIUM, MARYLAND 21093

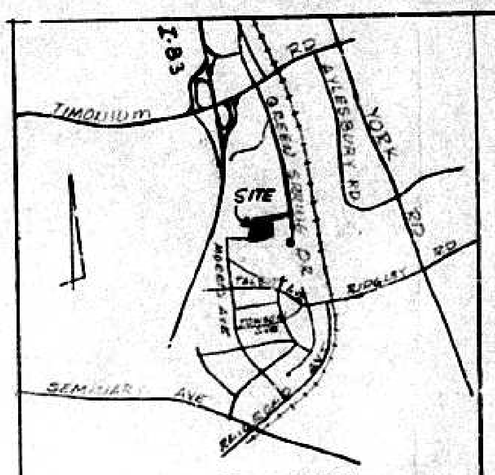
PLOT PLAN

HOFFMAN & CRAIN
ARCHITECTS

Richard J. Carroll, Structural Engineer
Ivi Grodzinsky, Mechanical Engineer
W.N. White, Electrical Engineer

DATE 3-6-72
DATE 3-6-72
No. A-1

E. F. RAPHEL & ASSOCIATES
REGISTERED PROFESSIONAL LAND SURVEYOR
701 COURTLAND AVENUE
TOWSON, MARYLAND 21204



EXIST. ZONE - ML-IM
EXIST. USE - UNDER CONSTRUCTION

2350' TO TIMONIUM ROAD

GREEN SPRING DRIVE

BEGINNING

R=699.44'
L=50.04'

60' R/W

N 80° 31' 48" E 634.97'

S 80° 31' 48" W 276.15'

EXISTING ML-IM ZONE
EXISTING DR 5.5 ZONE

EXIST. ZONE - ML-IM
EXIST. USE - MANUFACTURING

Macadam Paving

EXIST. PAINT SHOP

EXISTING BUILDING

GAS PUMPS

Ex. Truck Parking 80 Spaces

Ex. Truck Parking 80 Spaces

Conc & macadam Paving

Conc

Existing COLD STORAGE BUILDING

Macadam

EXISTING DR 5.5 ZONE

EXISTING ML-IM ZONE

N 22° 11' 36" E 426.60'

10' CHAIN LINK FENCE

Retaining

MACADAM

FOREST DRIVE

S 79° 32' 42" E 311.72'

S 80° 31' 48" W 580.00'

EXIST. ZONE - ML-IM
EXIST. USE - MANUFACTURING

GENERAL NOTES

AREA OF PROPERTY 4.206 AC.±
EXISTING ZONE ML-IM
PROPOSED ZONE ML-IM
PROPERTY IS SERVED BY PUBLIC WATER & SEWER
O.L.P. - EXIST. LIGHTS

PARKING DATA

AREA OF EXISTING BUILDINGS = 21,132 SF
1 SPACE/200 SF = 21,132/200 = 106 SPACES
NO. SPACES REQUIRED = 106 SPACES
NO. SPACES PROVIDED 186 SPACES

VARIANCE REQUESTED FROM SECT. 255.2

1. SUB. SECT. 243.2 - TO ALLOW A SIDE YARD OF 30'± INSTEAD OF THE REQUIRED 50'
2. SUB SECT. 243.3 - TO ALLOW A REAR YARD OF 30' INSTEAD OF THE REQUIRED 50'
3. SUB. SECT. 243.1 - TO ALLOW A FRONT YARD OF 55'± INSTEAD OF THE REQUIRED 75'

E. F. Raphel

PLAT TO ACCOMPANY ZONING PETITION
PROPERTY OF
GOOD HUMOR

8TH ELECT. DIST. BALTO. CO. MD
SCALE 1" = 50' OCT. 3, 1982

PETITIONER'S EXHIBIT 10
REV. DEC. 17, 1982

Revised plan Feb 1982

E. F. RAPHEL & ASSOC
REGISTERED PROFESSIONAL LAND SURVEYORS
201 COURTLAND AVENUE
TOWSON, MARYLAND 21204

David Abrams-Jff
Vanlas 1
21 Hughes Pkwy 21201

771