

PETITION FOR ZONING RE-CLASSIFICATION SPECIAL EXCEPTION AND/OR VARIANCE

TO THE COUNTY BOARD OF APPEALS 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 (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an D.R. 5.5 zone to an M.L. zone, for the reasons given in the attached statement; and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for Not Applicable.

and (3) for the reasons given in the attached statement, a variance from the following sections of the Zoning Law and Zoning Regulations of Baltimore County: Section 255.2* to permit a 0' side yard setback in lieu of the required 50' for the reason that it would result in undue hardship or practical difficulty to locate a structure on the subject property, due to severe topographical conditions, at a point other than the property line.

* (243.2 and .3)

Property is to be posted and advertised as prescribed by The Baltimore County Code.

I, or we, agree to pay expenses of above Re-classification, Special Exception and/or Variance, 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.

Contract Purchaser: R.E. Michel Company, Inc.
(Type or Print Name)
By: Ronald D. Miller
Signature: Ronald D. Miller, Treasurer
Address: 2801 W. Patapsco Avenue
City and State: Baltimore, Maryland 21230
Attorney for Petitioner: John B. Howard
(Type or Print Name)
Signature: [Signature]
Address: 210 Allegheny Ave., P.O. Box 5517
City and State: Towson, Maryland 21204
Attorney's Telephone No.: 823-4111

Legal Owner(s): THE BALTIMORE AND OHIO RAILROAD COMPANY
(Type or Print Name)
By: [Signature]
Signature: [Signature]
Address: Baltimore, Maryland 21218
City and State: Baltimore, Maryland 21218
Name, address and phone number of legal owner, contract purchaser or representative to be contacted:
Name: _____
Address: _____
Phone No.: _____

BARC-Form 1

RE: PETITION FOR RECLASSIFICATION : BEFORE THE COUNTY BOARD OF APPEALS
PETITION FOR VARIANCE
NE/S Smith Ave. 690' NW from the
Centerline of Bryant Ave.,
13th District
THE BALTIMORE AND OHIO : Case No. R-83-187-A (Item 111)
RAILROAD COMPANY and
R. E. MICHEL CO., INC., Petitioners :

ORDER TO ENTER APPEARANCE

To the Honorable, Members of Said Board:

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 John W. Hession, III
Peter Max Zimmerman John W. Hession, III
Deputy People's Counsel People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 27th day of January, 1983, a copy of the foregoing Order was mailed to John B. Howard, Esquire, 210 Allegheny Ave., P. O. Box 5517, Towson, MD 21204, Attorney for Petitioners.

John W. Hession, III
John W. Hession, III

RECEIVED
JAN 27 11 15 AM '83
COUNTY CLERK
BY: _____



HARRY J. PISTEL, P.E.
DIRECTOR

January 18, 1983

Mr. William T. Hackett, Chairman
Board of Appeals
Court House
Towson, Maryland 21204

Re: Item #111 (1982-1983)
Property Owner: The Baltimore and Ohio Railroad Company
N/S Smith Avenue 690' N/W from centerline of Bryant Avenue
Existing Zoning: D.R. 5.5
Proposed Zoning: M.L.
Variance to permit sideyard setback of 0' in lieu of the required 50'.
Acre: .5757 District: 13th

Dear Mr. Hackett:

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:

The comments supplied in conjunction with the Zoning Advisory Committee review of this property in connection with Item 206 (1981-1982) remain valid and are referred to for your consideration.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 111 (1982-1983).

Very truly yours,

Robert A. Norton
ROBERT A. NORTON, P.E., Chief
Bureau of Public Services

RAM:EM:FW:iss

Attachment:

G-SE Key Sheet
16 SW 8 & 9 Pds. Sheets
SW 4 & 5 C, SW 4 B Topo
102 Tax Map

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

February 25, 1983

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

John B. Howard, Esquire
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204

Chairman

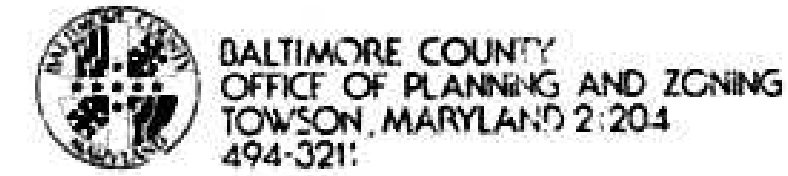
Re: Item No. 111 - Case No. R-83-187-A
Petitioner - Balto. & Ohio R.R. Co.
Reclassification & Variance Petitions

Dear Mr. Howard:

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.

The subject of this petition is a .575 acre parcel of land immediately adjacent to the warehouse/office facilities of the R.E. Michel Company. As you are aware, a variance (Case No. 82-287-A) to construct an addition to the west side of this building was previously granted.

The subject property is currently zoned D.R. 5.5 and in view of your client's proposal to reclassify it to an M.L. zone, the reclassification is required. Variances are also included even though no proposed use has been indicated on the submitted site plan. This office questioned this submission. However, at your request, the petition was processed accordingly. In view of the fact that no proposed use was indicated, the enclosed comment from this Committee are general in nature. If your client's request is granted, more specific comments will be provided. For further information on the comments from Current Planning, you may contact Ms. Susan Carrell at 494-3355.



NORMAN E. GERBER
DIRECTOR

January 18, 1983

Mr. William T. Hackett, Chairman
Board of Appeals
Room 219
Court House
Towson, Maryland 21204

Dear Mr. Hackett:

Comments on Item #111, Zoning Advisory Committee Meeting, December 7, 1982, are as follows:

Property Owner: The Baltimore and Ohio Railroad Company
Location: NE/S Smith Avenue 690' N/W from centerline of Bryant Avenue
Acre: .5757
District: 13th

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.

The petitioner must comply with the Baltimore County Development Regulations, (Bill 56-82) and the Growth Management Regulations (Bill 178-80).

Sincerely yours,

John L. Wimbley
John L. Wimbley
Planner III
Current Planning & Development

JLW:rls

May 19, 1982

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

Re: Item #206 (1981-1982)
Property Owner: R. E. Michel Company, Inc.
Centerline of Smith Avenue 690' N/W from centerline of Bryant Avenue
Acre: 6.3202 District: 13th

Dear Mr. Hackett:

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 are not directly involved.

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

The petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisance or danger to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the petitioner.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review.

Very truly yours,

(SIGNED) ROBERT A. NORTON

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

RAM:EM:FW:iss

G-SE Key Sheet
16 SW 8 & 9 Pds. Sheets
SW 4 & 5 C, SW 4 B Topo
102 Tax Map

STEPHEN E. COLLINS
DIRECTOR

January 5, 1983

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

-ZAC- Meeting of December 7, 1982
Item Nos. 107, 108, 109, 110, 111, and 112.

Dear Mr. Hammond:

The Department of Traffic Engineering has no comments
for item numbers 107, 108, 109, 110, 111, and 112.

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineering Assoc. II

MSF/ccm

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

William E. Hammond, Zoning Commissioner
TO: Office of Planning and Zoning Date: December 21, 1982
FROM: Jan J. Foxrest
SUBJECT: Zoning Variance Items

The Baltimore County Department of Health has reviewed
the following zoning variance items, and has no specific comments
regarding same:

- Item # 87 - Raymond J. Marocco, et al
- Item # 89 - Babco Federal Credit Union
- Item #108 - Louis H. & Martha E. Kullaga
- Item #109 - William H. & Anthony J. Buchanan, Jr.
- Item #110 - Roy Neal
- Item #111 - Baltimore and Ohio Railroad Co.
- Item #114 - Eugene & Mary Pessegno
- Item #115 - Edward & Rose Stefanski
- Item #119 - Michael E. & Andrea W. Hartman
- Item #122 - Dino G. & Mary D. Blagakis

Jan J. Foxrest
Jan J. Foxrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

LJF/rth

PAUL H. RENCKE
CHIEF

December 20, 1982

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

Attention: Nick Comodori, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: The Baltimore and Ohio Railroad Company
Location: NE/2 Smith Avenue 690' N/W from centerline of Bryant Avenue
Item No.: 111
Zoning Agenda: Meeting of December 7, 1982

Comments:

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.

- (X) 1. Fire hydrants for the referenced property are required and shall be
located at intervals of 300 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.

REVIEWED BY: *George M. McInerney*
Planning Group
Special Inspection Division

Noted and
Approved: *George M. McInerney*
Fire Prevention Bureau

JPW/bj

TED ZALESKI, JR.
DIRECTOR

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

Dear Mr. Hammond:

Comments on Item #111 Zoning Advisory Committee Meeting
are as follows:

Property Owner: The Baltimore and Ohio Railroad Company
Location: NE/2 Smith Avenue 690' N/W from centerline of Bryant Avenue
Item No.: 111
Variance to permit sideyard setback of 0' in lieu of the required 50'.

Access
Setback: 5757
13th

The items checked below are applicable:

- (X) All structures shall conform to the Baltimore County Building Code 1981/
Amended 1981 and State of Maryland Code for the Building and Agency
and other applicable codes.
- () A building/other structures permit shall be required before beginning
construction.
- () Residential: Three sets of construction drawings are required to file a permit
application. Architect/Engineer seal is/are not required.
- () Commercial: Three sets of construction drawings with a Maryland Registered
Architect or Engineer shall be required to file a permit application.
- () An exterior wall erected within 6' of an adjacent lot line shall be at least two
feet above the finished ground level, or equivalent structure within 3'-6" of lot line. A
firewall is required if construction is on the lot line. See Table 101, Item 2, Section 1017 and Table 102.
- () Setback variance conflicts with the Baltimore County Building Code,
Section 101.
- () A change of occupancy shall be applied for, along with an alteration permit
application, and three required sets of drawings indicating how the structure
will meet the Code requirements for the proposed change. Drawings may require
a professional seal.
- () Before this office can comment on the above structure, please have the owner, then
the owner of a Registered in Maryland Architect or Engineer certify to this
office, that the structure for which a proposed change in use is proposed can
comply with the height/area requirements of Table 205 and the required construction
classification of Table 201.
- (X) Comments: Previous comments to this site still apply.

NOTE: These comments reflect only the information provided by the drawings
submitted to the office of Planning and Zoning and are not intended to
be construed as the full extent of any permit.
If desired additional information may be obtained by visiting Room #122
(Plan Room) at 111 West Chesapeake Ave., Towson.

Very truly yours,
Mark P. Schuler
Mark P. Schuler, Chief
Plan Room

TEZ/rj

FILE CL-82

TED ZALESKI, JR.
DIRECTOR

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

Dear Mr. Hammond:

Comments on Item # 206 Zoning Advisory Committee Meeting
are as follows:

Property Owner: E. E. Michel Company, Inc.
Location: Centerline of Smith Avenue 690' W. from centerline of
Bryant St.
Variance to permit a side yard setback of 0' in lieu
of the required 50'.

Access: 6,502
Setback: 13th

The items checked below are applicable:

- (X) All structures shall conform to the Baltimore County Building Code 1981/
Amended 1981 and State of Maryland Code for the Building and Agency
and other applicable codes.
- (X) A building/other structures permit shall be required before beginning construction.
- () Residential: Three sets of construction drawings are required to file a permit
application. Architect/Engineer seal is/are not required.
- (X) Commercial: Three sets of construction drawings with a Maryland Registered
Architect or Engineer shall be required to file a permit application.
- () In wood frame construction an exterior wall erected within 6' of an adjacent
lot line shall be of one hour fire resistive construction, no openings permitted
within 3'-0" of lot line. A firewall is required if construction is on the lot
line. See Table 101, Item 2, Section 1017 and Table 102.
- () Setback variance conflicts with the Baltimore County Building Code,
Section 101.
- () A change of occupancy shall be applied for, along with an alteration permit
application, and three required sets of drawings indicating how the structure
will meet the Code requirements for the proposed change. Drawings may require
a professional seal.
- (X) Before this office can comment on the above structure, please have the owner, then
the owner of a Registered in Maryland Architect or Engineer certify to this
office, that the structure for which a proposed change in use is proposed can
comply with the height/area requirements of Table 205 and the required construction
classification of Table 201.
- (X) Comments: Unless the structure is of type 1A or 1B construction
and sprinkled or one of several other alternatives, problems
could be encountered with fire exposure where the proposed
structure parallels the interior lot line. See Article 5, General
Building Limitations.

NOTE: These comments reflect only the information provided by the drawings
submitted to the office of Planning and Zoning and are not intended to
be construed as the full extent of any permit.
If desired additional information may be obtained by visiting Room #122
(Plan Room) at 111 West Chesapeake Ave., Towson.

Very truly yours,
Charles E. Burden
Charles E. Burden, Chief
Plan Room

MICROFILMED

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert V. Dubel, Superintendent

Towson, Maryland - 21204

Date: December 6, 1982

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

Z.A.C. Meeting of: December 7, 1982

RE: Item No: 107, 108, 109, 110, 111, 112
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,
W. Nick Petrovich
W. Nick Petrovich, Assistant
Department of Planning

WNP/bp

MICROFILMED

494-3180

County Board of Appeals

Room 200, Court House
Towson, Maryland 21204
March 15, 1983

John B. Howard, Esquire
210 Allegheny Avenue
Towson, Md. 21204

Re: Case No. R-83-187-A
The Baltimore & Ohio R.R. Co.
and R. E. Michel Co., Inc.

Dear Mr. Howard:

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,

Edith G. Eschert
Edith G. Eschert, Adm. Secretary

Encl.

cc: T. R. Jackson
Ronald D. Miller
John W. Houston, III, Esq.
Mr. W. E. Hammond
Mr. J. E. Dyer
Mr. N. E. Gerber
Mr. J. G. Howell
Board of Education

MICROFILMED

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

William T. Mackett, Chairman
TO: County Board of Appeals Date: January 25, 1983
Norman E. Gerber, Director
FROM: Office of Planning and Zoning

SUBJECT: Zoning Reclassification Petition No. R-83-187-A
The R.E. Michel Company Inc., Property
E/S of B. & O. Railroad R/W
Between Patuxent and Smith Avenues
13th Election District; 1st Councilmanic District

This 0.575 acre parcel is located between a Baltimore and Ohio Railroad right-
of-way and the existing distribution center; the existing center is located on an 8.2 acre
property that is traversed by the Baltimore City - Baltimore County boundary line. The
petitioner is requesting a change from O.R. 5.3 to M.L. zoning, is requesting variances
to permit side and rear yard setbacks of 0' instead of the required 30', and proposes to
construct an addition to the existing facility.

M.L. zoning here would allow for the proposed expansion, and this office believes
that such an expansion would be a reasonable use for the land. Additionally, the fact
that the variances requested are for portions of the site that abut the railroad right-of-way
only, negates concern this office might have had for any potential adverse effects upon
adjacent properties.

This office is not opposed to the granting of the subject request. If granted, it is
recommended that a detailed landscaping plan, submitted to and approved by the Division of
Current Planning and Development, be made a condition of the order; particular care
should be taken in the treatment of the area along the southernmost and easternmost
boundaries of the property, because of the adjacent church and residences. Please note
that this landscaping plan should encompass the entire property, not just the 0.575 acre
portion that is the subject of the request for zoning reclassification.

Norman E. Gerber
Norman E. Gerber
Director of Planning and Zoning

NEG/JGHalc

cc: John W. Houston, III
People's Counsel
James D. Lucas, Jr.
Economic Development Commission

John B. Howard, Esquire
Cook, Howard, Downes and Tracy
210 Allegheny Avenue
P.O. Box 5917
Towson, Maryland 21204

MICROFILMED

DESCRIPTION OF LAND
OF THE R. E. MICHEL CO.
TO BE REZONED

Beginning for the same at a point on the northeasterly right of way line of Smith Avenue, 25 feet from the center of the existing pavement and 690 feet, more or less, measured northwesterly from the intersection of Smith Avenue and Bryant Avenue, thence running with the outline of the land now owned by the R. E. Michel Company by deed recorded in Liber E.H.L.Jr., 6063, Page 765 and running with the said Smith Avenue, (1) North 68° 08' 56" West 690.43 feet, thence leaving the said road, (2) North 52° 53' 25" East 117.56 feet to a point at a corner of a parcel of land recently conveyed to the R. E. Michel Company by the Baltimore and Ohio Railroad Company, thence with the outline of the said parcel, two courses, (3) North 40° 32' 08" East 299.75 feet and (4) North 49° 22' 13" East 164.17 feet to intersect the Baltimore City Boundary Line at a point lying South 60° 40' 27" East 35.19 feet from Boundary Monument No. 9509, thence with the said Boundary Line and through the land of the R. E. Michel Co., (5) South 60° 40' 27" East 468.82 feet to intersect the outline of the land of the said R. E. Michel Co., thence with the said outline, two courses, (6) South 61° 29' 05" West 149.95 feet and (7) South 19° 13' 41" West 344.63 feet to the place of beginning.

Saving and Excepting therefrom the following two parcels:

First, all that parcel of land contained within the above described land which is currently zoned M.L.

1

Second, all that parcel of land contained within the above described land, lying along and adjacent to the said Smith Avenue, which is currently zoned DR 5.5.

The remainder which is to be rezoned contains 25,077 square feet or 0.5757 acres of land more or less.



2

DESCRIPTION OF LAND
TO BE REZONED FROM DR 5.5 TO M.L.

Beginning for the same at a point on the northeasterly right of way line of Smith Avenue, 25 feet from the center of the existing pavement and 690 feet, more or less, measured northwesterly from the intersection of Smith Avenue and Bryant Avenue, thence running with the outline of the land now owned by the R. E. Michel Company by deed recorded in Liber E.H.L.Jr., 6063, Page 765 and running with the said Smith Avenue, (1) North 68° 08' 56" West 690.43 feet, thence leaving the said road, (2) North 52° 53' 25" East 117.56 feet to a point, thence (3) North 40° 32' 08" East 299.75 feet and (4) North 49° 22' 13" East 164.17 feet to intersect the Baltimore City Boundary Line at a point lying South 60° 40' 27" East 35.19 feet from Boundary Monument No. 9509, thence with the said Boundary Line and through the land of the R. E. Michel Co., (5) South 60° 40' 27" East 468.82 feet to intersect the outline of the land of the said R. E. Michel Co., thence with the said outline, two courses, (6) South 61° 29' 05" West 149.95 feet and (7) South 19° 13' 41" West 344.63 feet to the place of beginning.

Saving and Excepting therefrom the following two parcels:

First, all that parcel of land contained within the above described land which is currently zoned M.L.

Second, all that parcel of land contained within the above described land, lying along and adjacent to the said Smith Avenue, which is currently zoned DR 5.5.

The remainder which is to be rezoned contains 25,077 square feet or 0.5757 acres of land more or less.

Revised 1-27-83
#111

IN THE MATTER OF THE PETITION
OF R. E. MICHEL COMPANY, INC.,
CONTRACT PURCHASER, FOR A
RECLASSIFICATION FROM A D.R. 5.5
ZONE TO A M.L. ZONE AND FOR A
VARIANCE PERMITTING A 0' SIDE
YARD SETBACK OF PROPERTY CONSISTING
OF .5757 ACRES IMMEDIATELY CONTIGUOUS
TO THE PROPERTY KNOWN AS
2801 WEST PATAPSCO AVENUE,
BALTIMORE COUNTY, MARYLAND

BEFORE THE
COUNTY BOARD OF APPEALS
FOR BALTIMORE COUNTY

MEMORANDUM IN SUPPORT OF PETITION FOR
RECLASSIFICATION AND VARIANCE

The R. E. Michel Company, Inc., wholesale distributors of air conditioning, refrigeration and heating equipment, are the owners of a 50,000 square foot distribution facility located on approximately 8.2 acres of land which property is known as 2801 West Patapsco Avenue.

The company has experienced substantial growth over the past few years and has the immediate need to expand its facility.

The Baltimore and Ohio Railroad Company has agreed to convey a strip of land consisting of .5757 of an acre which it deems to be excess land and which is located between the Michel Company's western property line and a deep ravine through which the railroad right-of-way passes.

It is immediately apparent from a review of the zoning plat submitted herewith that the subject strip of land, due to the severe topographic conditions and existence of the railroad

PETITION FOR RECLASSIFICATION AND VARIANCE
13th Election District

ZONING: Petition for Reclassification and Variance

LOCATION: Northeast side of Smith Avenue, 690 ft. Northwest from the centerline of Bryant Avenue

DATE & TIME: Wednesday, March 2, 1983 at 10:00 A.M.

PUBLIC HEARING: Room 218, Courthouse, Towson, Maryland

The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter, will hold a public hearing:

Present Zoning: D.R. 5.5
Proposed Zoning: M. L.

and Variance to permit 0 ft. side and rear yard setbacks in lieu of the required 50 ft.

The Zoning Regulation to be excepted as follows:
Section 255.2 (243.2 and .3) - minimum side and rear yard setbacks in an M.L. zone within 100 ft. of a residential zone

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

Being the property of The Baltimore and Ohio Railroad Company, as shown on plat plan filed with the Zoning Department.

Hearing Date: Wednesday, March 2, 1983 at 10:00 A.M.
Public Hearing: Room 218, Courthouse, Towson, Maryland

BY ORDER OF
WILLIAM T. HACKETT, CHAIRMAN
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

February 2, 1983

John B. Howard, Esquire
218 Alleghany Avenue
P.O. Box 8817
Towson, Maryland 21204

NOTICE OF HEARING

Re: Petition for Reclassification and Variance
DR 5.5 of Smith Ave., 690' NW from the
centerline of Bryant Ave.
The Baltimore and Ohio Railroad Company - Petitioner
Case No. R-82-187-A

TIME: 10:00 A.M.

DATE: Wednesday, March 2, 1983

PLACE: Room 218, Courthouse, Towson, Maryland

on People's Council

William T. Hackett
William T. Hackett, Chairman
County Board of Appeals

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Leonard S. Jacobson

To County Solicitor

Norman E. Gorker, Director

FROM: Office of Planning and Zoning

Date: December 3, 1982

SUBJECT: R.E. Michel Company, Inc. property
Request for exemption from cyclical procedures

Attached please find the subject resolution adopted by the Planning Board at its meeting on December 2, 1982. Please prepare the necessary material for the County Council's consideration.

Norman E. Gorker
Norman E. Gorker
Director of Planning and Zoning

NEG:JGH:ale

cc: Thomas Taperovich
County Council Secretary-
Administrator

John W. Henson, III
People's Council

William T. Hackett, Chairman
County Board of Appeals

James E. Dyer
Zoning Supervisor

J. G. Maxwell

John B. Howard, Esq.
Cook, Howard, Davies & Tracy
218 Alleghany Avenue
P.O. Box 8817
Towson, Maryland 21204

right-of-way. is erroneously classified as D.R. 5.5. No use permitted within that zone could be made of the subject property and logically the M.L. zoning line should have been extended to encompass the subject property at the time of adoption of the 1980 Comprehensive Zoning Map.

It is respectfully submitted that the County Council should have followed the traditional approach in the instant case of establishing zoning lines based upon topographical or other considerations instead of superimposing a zoning line on a property line. In fairness to the Council, however, it should be pointed out that no request was made with regard to the subject strip.

This Board, on at least two recent occasions, has applied a practical and reasonable rule to remedy obvious errors unwittingly committed by the Council in the Comprehensive Map process. In case R-82-75, Petition of Samuel H. Shriver, the Board established the rule that error can be found not only because the County Council's zoning was efficacious, but also because "the overwhelming weight of evidence indicates the County Council failed to accomplish on the Comprehensive Map what it clearly would have done had the issue been presented to it." Shriver was reaffirmed in Case No. R-82-162-A, Petition of Baltimore County, Maryland (the Turner Station Elementary School) in an Opinion and Order issued on January 28, 1982.

For the above reasons, it is respectfully requested that the subject property be reclassified from D.R. 5.5 to M.L.

Respectfully submitted,

John B. Howard
John B. Howard
Attorney for Petitioner R. E. Michel Co., Inc.

BALTIMORE COUNTY PLANNING BOARD
RESOLUTION

December 2, 1982

WHEREAS, Pursuant to Subsection 2-58.1 (i) of the Baltimore County Code 1978 as amended, the Baltimore County Planning Board has reviewed the request by the R.E. Michel Company, Inc. to exempt from the zoning cycle the subject reclassification petition; and

WHEREAS, The Planning Board believes that early action is required on this petition to provide for the timely expansion and benefits derived therefrom; now therefore, be it

RESOLVED, That the Baltimore County Planning Board hereby certifies to the County Council of Baltimore County that early action on the subject Zoning Reclassification Petition would be in the public interest.

I HEREBY CERTIFY that this resolution was duly adopted by the Baltimore County Planning Board at its meeting in Towson, Maryland on December 2, 1982.

DATE: 12/12/82

Norman E. Gerber
Norman E. Gerber
Secretary of Baltimore County Planning Board



County Council of Baltimore County
Court House, Towson, Maryland 21204
(301) 494-3196

December 21, 1982

COUNCIL

Ronald B. Hickernell
FIRST DISTRICT

Gary Huddles
SECOND DISTRICT

James T. Smith, Jr.
THIRD DISTRICT CHAIRMAN

Barbara F. Bachar
FOURTH DISTRICT

Norman W. Lauenstein
FIFTH DISTRICT

Engene W. Gallagher
SIXTH DISTRICT

John W. O'Rourke
SEVENTH DISTRICT

Thomas Toporovich
SECRETARY

Mr. William T. Hackett, Chairman
Board of Appeals
Court House
Towson, Maryland 21204

Dear Mr. Hackett:

Reference is made to the Zoning Reclassification Petition requested by The Baltimore and Ohio Railroad Company and R. E. Michel Company, Inc., and to the Planning Board Resolution dated December 2, 1982.

Please be advised that the County Council approved the following resolution at their meeting on December 20, 1982 in connection with this petition:

"Pursuant to Subsection 2-58.1 of the Baltimore County Code 1978, as amended, the Baltimore County Council approves the request of The Baltimore and Ohio Railroad Company and R. E. Michel Company, Inc. to exempt from the zoning cycle the reclassification petition which is the subject of the Baltimore County Planning Board Resolution dated December 2, 1982."

This information is forwarded for your appropriate action.

Sincerely yours,

Thomas Toporovich
Thomas Toporovich
Secretary

TT:bl

Enclosure

CC: Norman E. Gerber, Secretary
Planning Board

Dec 21 4 11 PM '82
Baltimore County
CC
A-10
P-10

B & O RR - R.E. MICHEL CO. - #R-83-187-A

2.

Following that determination, Mr. Michel testified that upon review of the expansion possibilities at this location he was unable to expand his facilities to the north because of severe topographic grading. He further testified that the only direction in which his present facilities could be expanded is to the west. Exhibits submitted by the Petitioners, together with Mr. Michel's testimony, established that Petitioners' property line to the west was angled with a severe ravine. Subsequently, Petitioners have contracted to purchase the parcel of land which is currently zoned D.R. 5.5 and consists of .575 acres, more or less, adjacent to its property line to the west.

Petitioners' next witness was Basil Acay, an architect in private practice in Baltimore County. Mr. Acay testified that he had been retained by the Petitioners to make studies concerning the physical expansion of Petitioners' location. He further testified that as a result of the studies he made he concluded that any expansion of the present site to the north would not be practical because of the severe grading. He further testified that the only practical direction for expansion of the present site would be to the west. Mr. Acay was of the opinion that the Petitioners must obtain both the reclassification and the 0 foot setback in order to allow the construction of any logical building on Petitioners' site. He further stated that in his opinion Petitioners would experience undue difficulty and hardship if Petitioners were made to comply with the 50 foot setback required in an M.L. zone.

Petitioners next presented William Kirwin, a land planner and landscape architect recognized by this Board as an expert in both fields. Mr. Kirwin testified that the present D.R. 5.5 classification for the subject property is not usable given its present dimensions and location to the railroad directly to the west and is not in any case accessible for use even if it could be used for residential purposes. It was Mr. Kirwin's opinion that error exists as result of the dimensions and other topographic conditions existing on the property and the confiscatory nature as a result of the inaccessibility to the property. Additionally, it was Mr. Kirwin's opinion that any development of this

B & O RR - R.E. MICHEL CO. - #R-83-187-A

3.

parcel would pose an unreasonable hardship should the requested variance not be granted.

Petitioners next presented James Howell, a representative from the Office of Planning of Baltimore County and recognized as an expert in the field of planning by this Board, who testified that the Baltimore County Office of Planning is not opposed to granting the reclassification on the subject property and that M.L. zoning would provide for a reasonable use for the land. Additionally, due to the fact that the variance requested is for that portion of the site that abuts the railroad right-of-way only, any adverse impact would be minimal. Mr. Howell's only concern, as was stated in the Memorandum to the Board from Norman E. Gerber, Director of Planning and Zoning, was that if the variance were granted it would be proper to require a detailed landscaping plan that could show sufficient care in the treatment in areas along the southernmost and easternmost boundaries of the property.

The Board is of the opinion that error has been shown in this case sufficient to warrant a reclassification of the .575 acre portion and will so order a reclassification from the present D.R. 5.5 zone to an M.L. zone. We agree with those statements written above, as testified to by the witnesses presented, as to the inappropriateness of the D.R. 5.5 zoning for this parcel and the unusable nature of said parcel for residential purposes. Additionally, the Board is of the opinion that practical difficulty and unreasonable hardship exist sufficient to warrant a variance for a side or rear yard setback (but not a side and rear yard setback) of 0 feet instead of the required 50 feet and will so order. As a condition, however, the Board will require the submission and approval of a detailed landscaping plan that can provide adequate treatment of those areas along the southernmost and easternmost boundaries of the property, said plan is to encompass the entire property owned by the Petitioners and not just that area requested for reclassification.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 15th day of March, 1983, by the County Board of Appeals, ORDERED that the reclassification from D.R. 5.5 to M.L. petitioned for, be and the same is hereby GRANTED, and it is

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1982, Legislative Day No. 25

RESOLUTION NO. 124-82

Mr. James T. Smith, Jr., Councilman
By Request of the County Executive

By the County Council, December 20, 1982

A RESOLUTION to approve the Planning Board's certification that the zoning reclassification petition filed on behalf of The Baltimore and Ohio Railroad Company, owner and R.E. Michel Company, Inc., contract purchaser, for a .5757 acre parcel of land contiguous to the property known as 2801 W. Patapsco Avenue, should be exempted from the regular cyclical procedure of §2-58.1(c) through (h), inclusive, of the Baltimore County Code, 1978, 1981 Cumulative Supplement, as amended.

WHEREAS, the Planning Board, by resolution dated December 2, 1982, has certified that early action on the Petition for Zoning Reclassification filed on behalf of R.E. Michel Company, Inc., contract purchase, requesting a reclassification of the above-described property would be in the public interest; and

WHEREAS, the County Council of Baltimore County, in accordance with the provisions of §2-58.1(i) may approve said certification and exempt the Petition for Zoning Reclassification from the regular, cycle procedures of §2-58.1.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland, that the certification by the Planning Board that early action on the Zoning Reclassification Petition filed on behalf of R.E. Michel Company, Inc., be and the same is hereby approved; and

BE IT FURTHER RESOLVED, that the Board of Appeals shall schedule a public hearing on said Petition in accordance with §2-58.1(i) of the Baltimore County Code.

B & O RR - R.E. MICHEL CO. - #R-83-187-A

4.

FURTHER ORDERED that a variance from Section 255.2 of the Baltimore County Zoning Regulations to permit a side or rear yard setback, as stated in the Opinion above, of 0 feet instead of the required 50 feet petitioned for, be and the same is hereby GRANTED, subject to a detailed landscaping plan of the entire property owned by the Petitioners being submitted to and approved by the Division of Current Planning and Development.

Any appeal from this decision must be in accordance with Rules B-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Keith S. Franz, Acting Chairman

Joanne L. Suder

Leroy B. Spertier

IN THE MATTER
OF THE APPLICATION OF
THE BALTIMORE & OHIO R.R. CO.
and R. E. MICHEL CO., INC.
for RECLASSIFICATION from D.R.
5.5 to M.L. and VARIANCE from
Section 255.2 of the Baltimore
County Zoning Regulations
NE/S Smith Ave. 690'
NW of c/l of Bryant Ave.
13th District

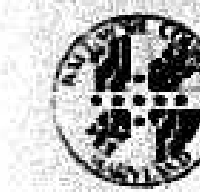
BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. R-83-187-A

OPINION

This matter comes before the Board on a petition for reclassification of .575 acres of property located on the northeast side of Smith Avenue 690 feet northwest of the center line of Bryant Avenue, in the Thirteenth Election District of Baltimore County. The subject property is presently zoned D.R. 5.5 and the requested reclassification would be to M.L. zoned property. This petition was taken out of cycle following resolutions of the Planning Board and the Baltimore County Council. Additionally requested by Petitioners is a variance from Section 255.2 of the Baltimore County Zoning Regulations to permit a side or rear yard setback of 0 feet in lieu of the required 50 feet.

The Petitioners' first witness was James D. Lucas, Jr., Director of Baltimore County Economic Development Commission. Mr. Lucas testified that he has been familiar with Petitioners' request since the spring of 1982. He further testified that he was instrumental in securing for the Petitioners certain Industrial Revenue Bond authorizations in connection with Petitioners' business. Mr. Lucas stated that he was familiar with the subject property as well as the surrounding areas and was of the opinion that the only appropriate use of the subject parcel would be a use consistent with the contiguous parcel, which is presently zoned M.L. He further testified that the 0 foot setback in lieu of the required 50 foot setback is necessary in order for the subject property to enjoy any reasonable use.

The Board next received testimony from Robert E. Michel, President of R. E. Michel Co., Inc. Mr. Michel testified that his corporation has been located at its present location for four and one-half years. He further testified that over the past couple of years his corporation has found it necessary to increase its warehouse space.



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

WILLIAM E. HAMMOND
ZONING COMMISSIONER

February 22, 1983

John B. Howard, Esquire
210 Alhambra Avenue
P. O. Box 9817
Towson, Maryland 21204

Re: Petition for Reclassification and Variance
NE/S of Smith Ave., 690' NW from c/l of
Bryant Avenue
The Baltimore and Ohio Railroad Co. - Petitioner
Case No. R-83-187-A

Dear Mr. Howard:

This is to advise you that \$75.00 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,

William E. Hammond
WILLIAM E. HAMMOND
Zoning Commissioner

WEH:sj

3/2/83. Check received from J. Howard. Sent to Zoning for deposit.

D.R.5.5.

D.R.5.5.

ML

D.R.5.5.

D.R.5.5.

ML

PARCEL PROPOSED
FOR RECLASSIFICATION
AREA = .5757 ACRE
25,077 SQ. FT.

PLOT PLAN

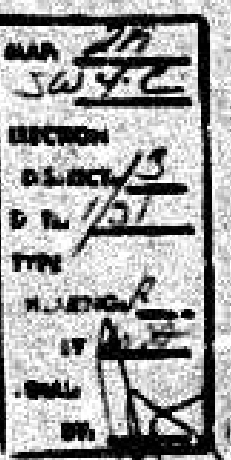
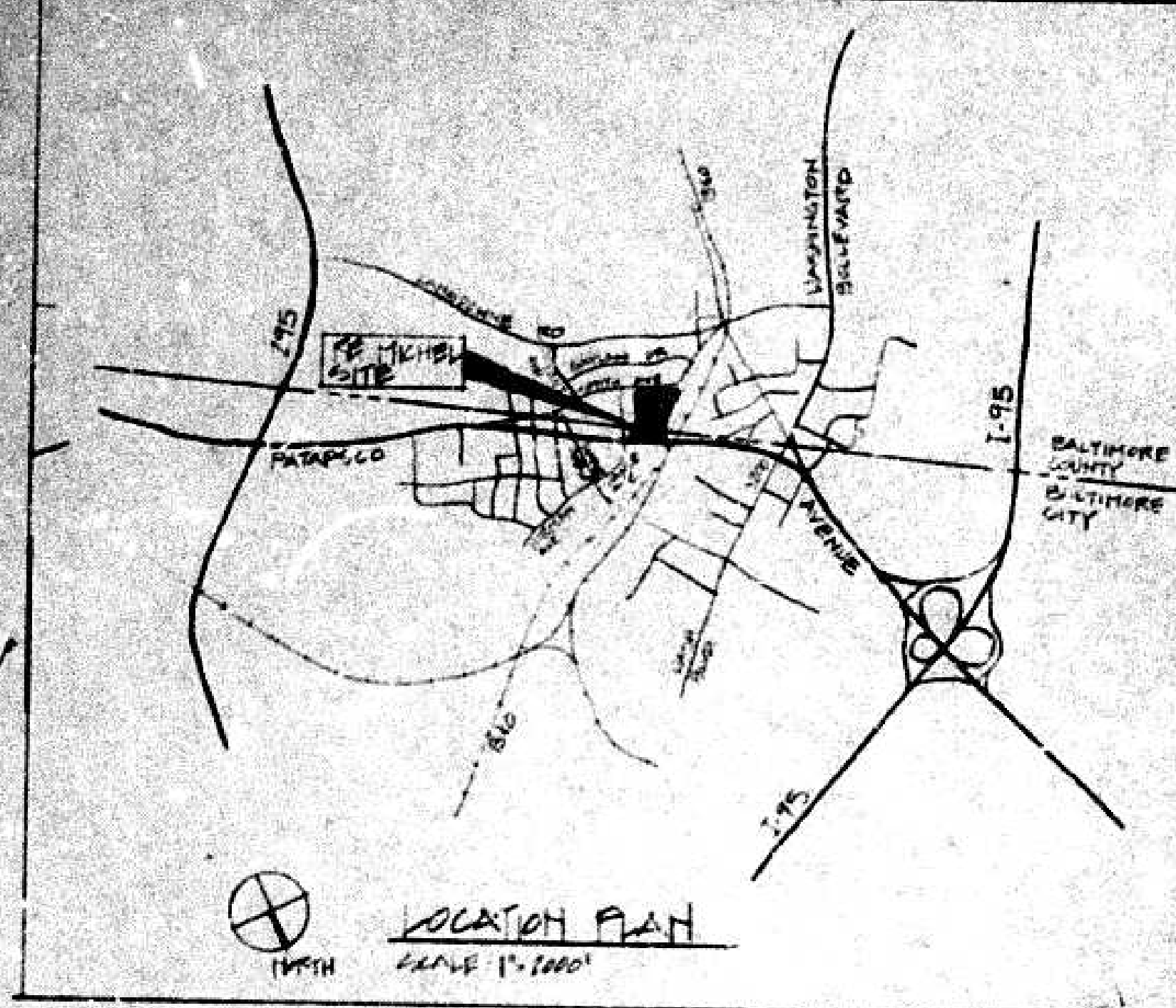
SCALE 1"=50'-0"

REQUEST FOR ZONING RECLASSIFICATION
FROM DR 5.5 TO ML AND VARIANCE
FOR SIDE AND REAR YARD SETBACKS
FROM 50 FEET TO 0 FEET

R.E. MICHEL COMPANY, INC.
DISTRIBUTION CENTER
2801 WEST PATAPSCO AVENUE
BALTIMORE, MARYLAND 21230

13th ELECTION DISTRICT
1st COUNCILMANIC DISTRICT

DATE: NOV. 19, 1982



THE WILSON T. BALLARD COMPANY
CONSULTING ENGINEERS
OWINGS MILLS, MARYLAND



EX. ZONING DR 5.5 ROW OF SING. FAM. CAPE CORD 1 1/2 STORY

SMITH AVE.

LEGEND

- PAVED AREA
- SLOPE AREA

ENTIRE PERIMETER FENCED.

CHURCH BUDD'S PARKING

D.R. 5.5

FLAT

D.R. 5.5

ZONING LINE

EX PARKING & SERVICE

ML

HEDGE ROW

D.R. 5.5

REQUEST AREA
DR 5.5 TO ML
VARIANCE REQUEST

BALTO CO.
BALTO. CIT.

ML

M1

M1

D.R. 5.5 ROW
80
64' DROP

D&O R

BLDG.

ENTRY

PATAPECO AVENUE

STEEP SLOPE

PATAPECO AVE

SITE PLAN SCALE 1" = 50'

EXISTING SITE FEATURES

WILLIAM F. KIRWIN INC.
LANDSCAPE ARCHITECTURE/LAND PLANNING
28 E. Susquehanna Ave. Suite 2
Towson MD 21204
(301) 337-0075

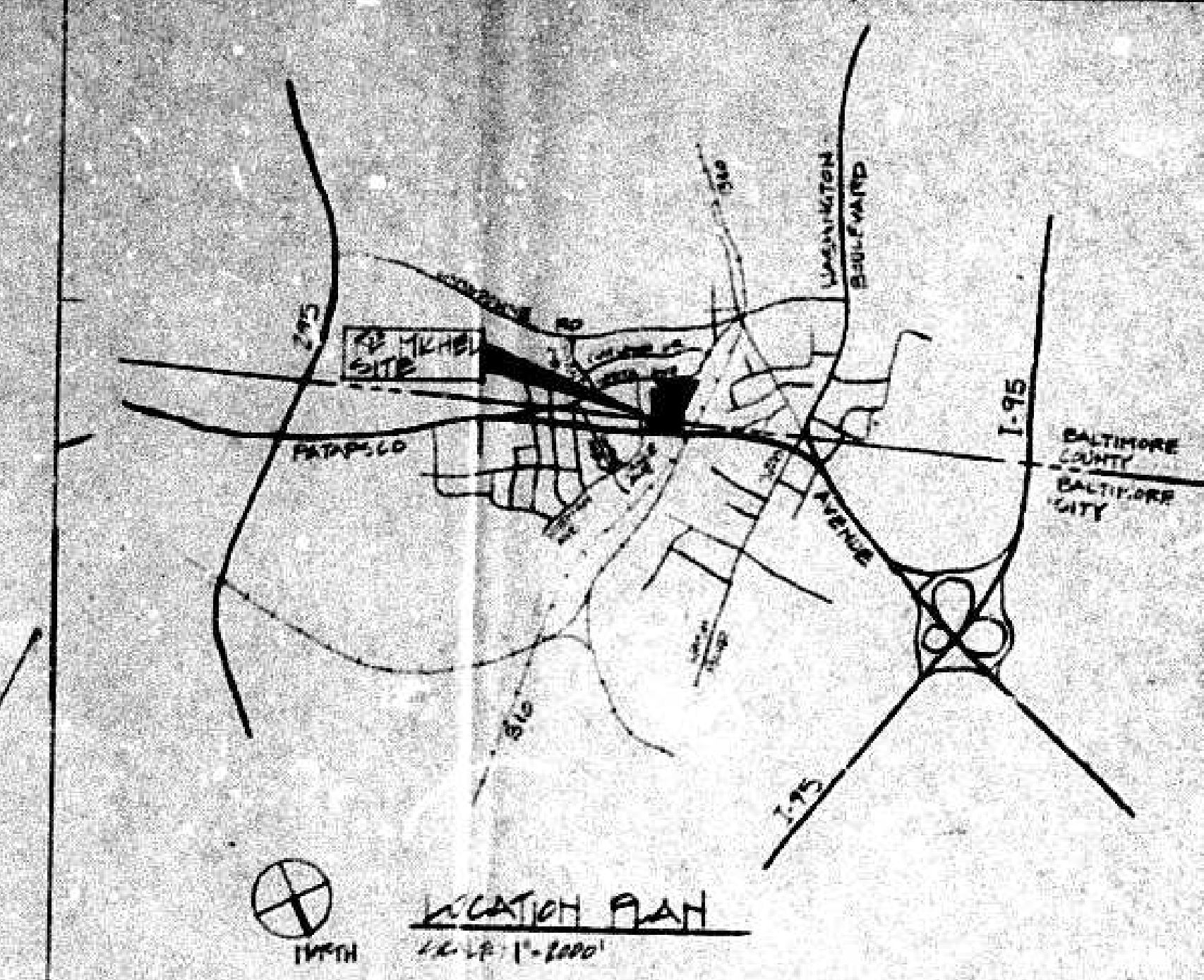
revisions	

P.S. MICHEL COMPANY INC.

project number
date
drawing number
of 1

DR.5.5.

Ref. & #1

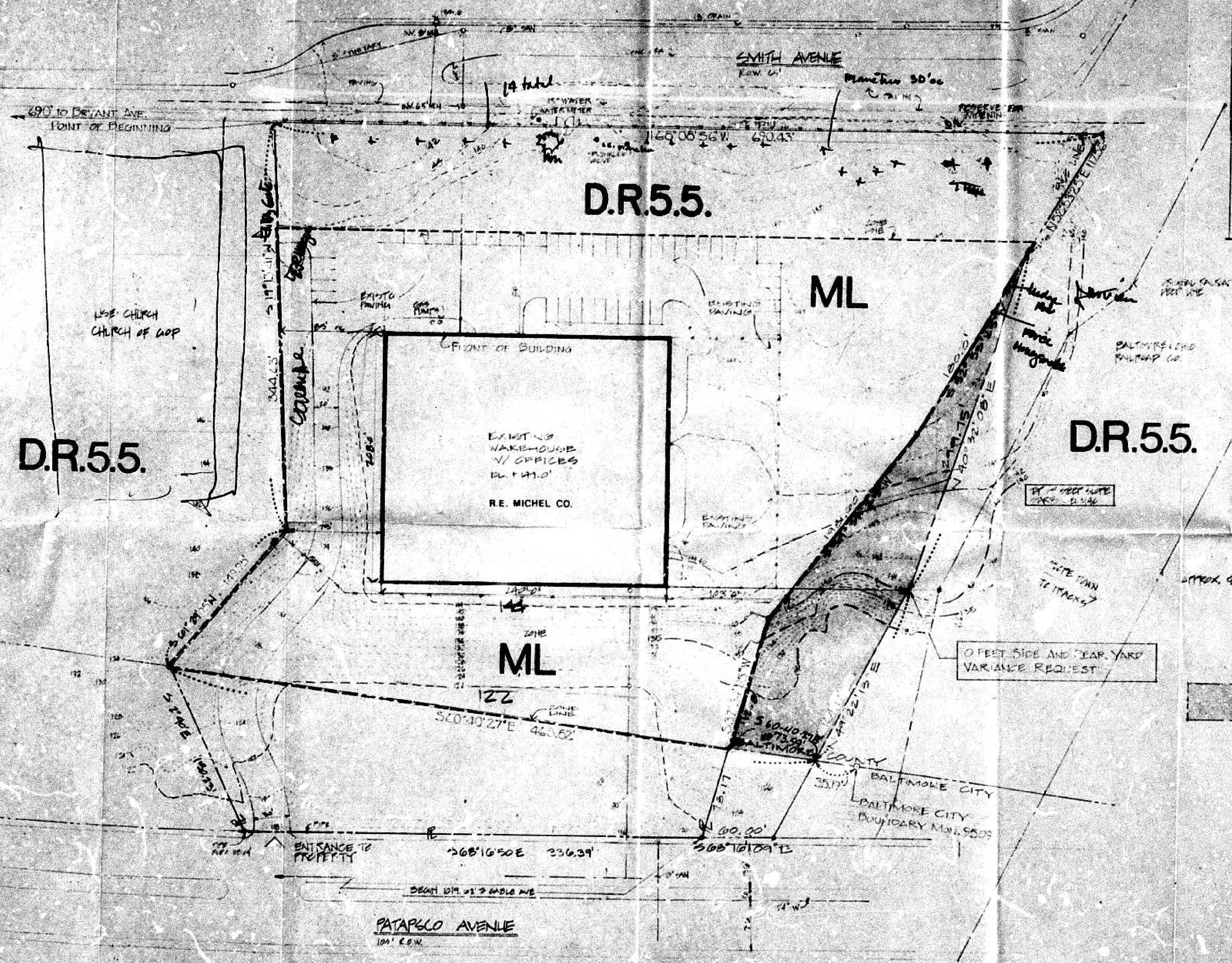


D.R.5.5.

ML

D.R.5.5.

D.R.5.5.

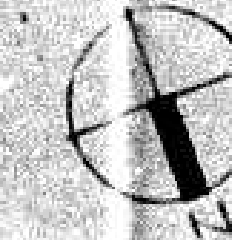


PARCEL PROPOSED
FOR RECLASSIFICATION
AREA = .5757 ACRE
25,077 SQ. FT.



PLOT PLAN

SCALE: 1" = 50'-0"



THE WILSON T. BALLARD COMPANY
CONSULTING ENGINEERS
OWING MILLS, MARYLAND

REQUEST FOR ZONING RECLASSIFICATION
FROM DR 5.5 TO ML AND VARIANCE
FOR SIDE AND REAR YARD SETBACKS
FROM 50 FEET TO 0 FEET

R.E. MICHEL COMPANY, INC.
DISTRIBUTION CENTER
2801 WEST PATAPSCO AVENUE
BALTIMORE, MARYLAND 21230

13th ELECTION DISTRICT
1st COUNCILMANIC DISTRICT

DATE: NOV. 19, 1982