

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Mr. Laurence Goetz
OPZ - Zoning

DATE: January 30, 1991

FROM: Avery Harden, Landscape Planner
Current Planning and Development
Office of Planning and Zoning

SUBJECT: MERCHANT'S TIRE AND AUTO CENTER
CASE NO. 84-152-XA
LANDSCAPE REQUIREMENTS

This office has determined that the landscape requirements for this development have been fulfilled. Please file the attached pictures with this case file.

Thank you.

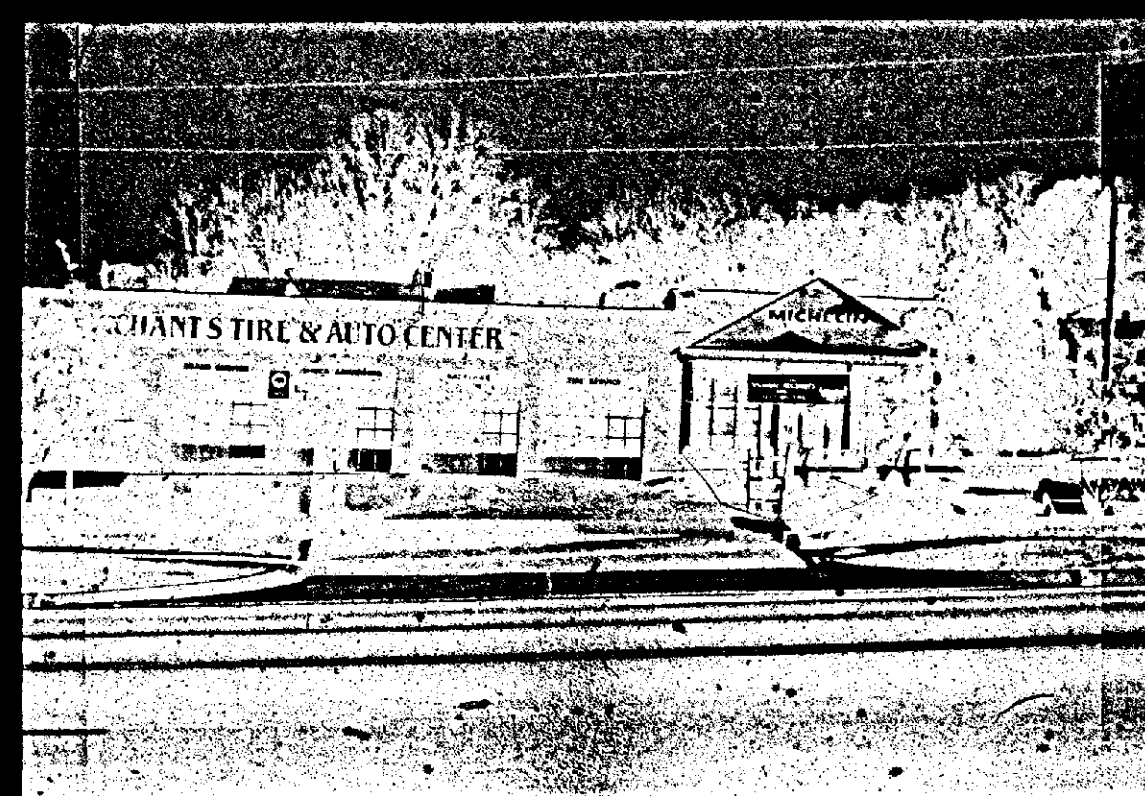
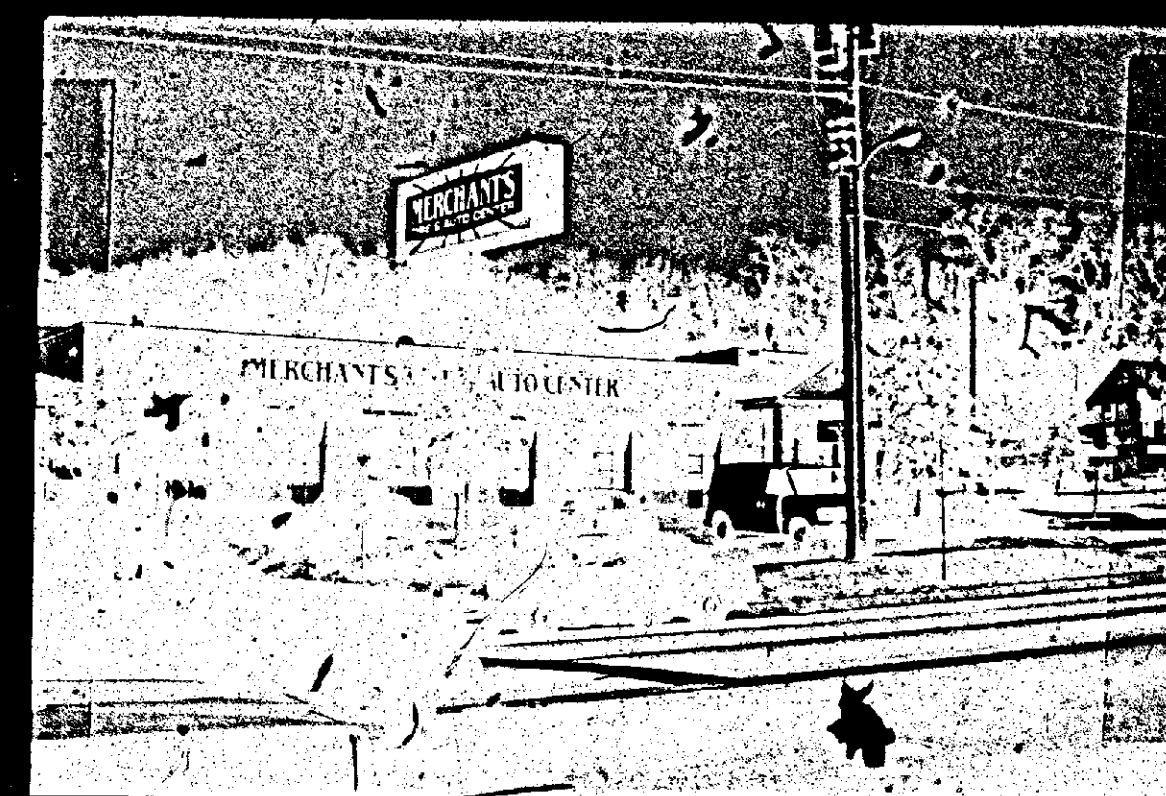
Avery Harden

ggl
Enc.

RECEIVED
JAN 31 1991

ZONING OFFICE

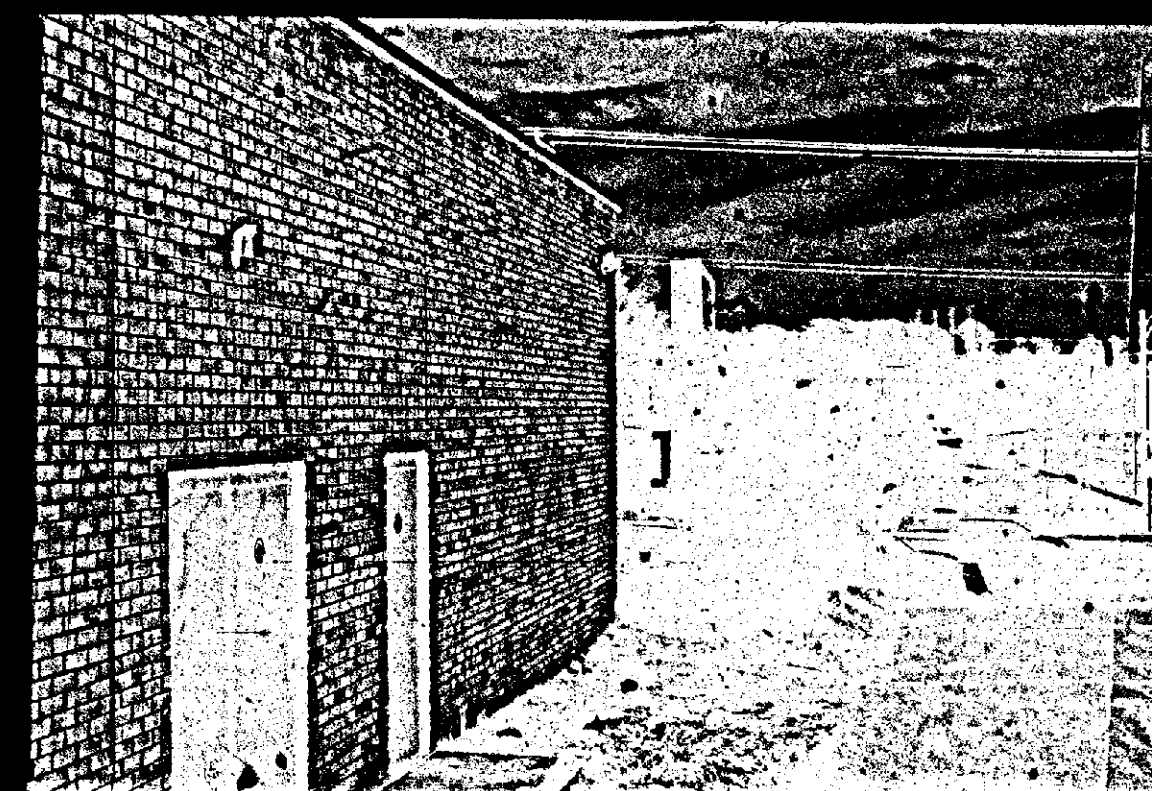
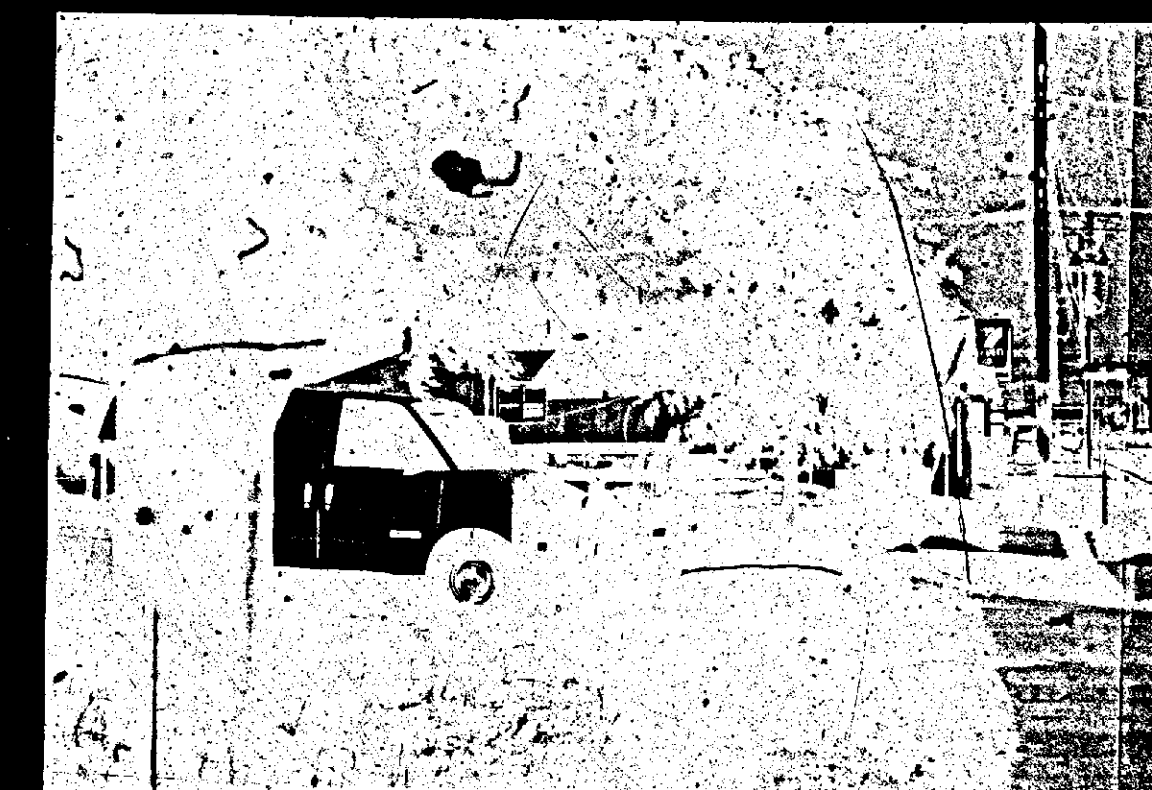
MERCHANT/TXTGGL



84-152-XA



84-152-XA



84-152-XA

Make ~~two~~ sets microfiche
cards and file originals
in file.

84-152-XA

PETITION FOR ZONING VARIANCE 84-152-XA 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 409.2c(4) to allow a set back of three (3) feet in lieu of eight (8) feet from the street property line to allow a side yard set back of 5 feet in lieu of ten (10) feet.

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

1. Because of size of property; variance required.
2. Because of future road takings, reduces the size of the subject property.

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

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

MERCHANT'S INCORPORATED

BY: (Type or Print Name)

Signature

9073 Euclid Avenue

Address

Manassas, VA 22110

City and State

Attorney for Petitioner:

S. ERIC DINENNA

(Type or Print Name)

Signature

406 W. Pennsylvania Avenue

Address

TOWSON, Maryland 21204

City and State

Attorney's Telephone No.: 825-1630

Address

406 W. Pennsylvania Avenue, 825-1630

City and State

ORDERED BY The Zoning Commissioner of Baltimore County, this 7th day

of November 1983, 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 14th day of December 1983, at 1:30 o'clock

P.M.

(over)

By: *Callahan*
Zoning Commissioner of Baltimore County.

PETITION FOR SPECIAL EXCEPTION 84-152-XA 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 Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for Service Garage (Battery, Tire and Accessories)

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

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

MERCHANT'S INCORPORATED

BY: (Type or Print Name)

Signature

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Address

Manassas, VA 22110

City and State

Attorney for Petitioner:

ERIC DINENNA

(Type or Print Name)

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P.M.

(over)

By: *Callahan*
Zoning Commissioner of Baltimore County.

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER

PETITION FOR VARIANCES

NW Corner of Belair Rd. and

Oakhill Ave., 14th District

ANTHONY F. DIPOLA, et al.,

Petitioners

OF BALTIMORE COUNTY

Case No. 84-152-XA

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

Peter Max Zimmerman

Deputy People's Counsel

John W. Hession, III

John W. Hession, III

People's Counsel for Baltimore County

Rm. 223, Court House

Towson, Maryland 21204

494-2138

I HEREBY CERTIFY that on this 22nd day of November, 1983, a copy of the

foregoing Order was mailed to S. Eric DiNenna, Esquire, and S. Eric DiNenna, P.A.,

406 W. Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioners.

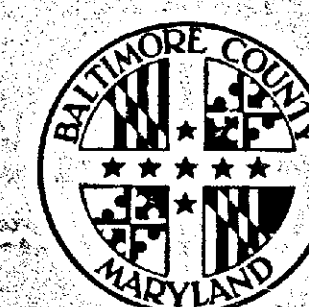
John W. Hession, III

John W. Hession, III

BALTIMORE COUNTY

ZONING PLANS

ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

December 5, 1983

S. Eric DiNenna, Esquire
406 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No. 64 - Case No. 84-152-XA
Petitioner - Anthony F. DiPaula
Special Exception and Variance

Dear Mr. DiNenna:

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.

Because the original site plan was revised to reflect the comments of the State Highway Administration and the Department of Traffic Engineering, I scheduled this petition for a hearing. Also, the variance forms were amended to reflect the changes to the new site plan.

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

NICHOLAS B. COMMODARI, Chairman

Zoning Plans Advisory Committee

ENCLOSURES

cc: W. Duval & Associates

416 E. Joppa Road

Towson, Maryland 21204



BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL, P.E.
DIRECTOR

October 3, 1983

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #64 (1983-1984)
Property Owner: Anthony F. DiPaula
N/W corner Belair Rd. and Oakhill Ave.
Acres: 0.5109 District: 14th

Dear Mr. Jablon:

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.

Highways:

Belair Road (U.S. 1) is a State Road. All improvements, intersections, entrances, drainage requirements and construction affecting a State Road right-of-way are subject to the standards, specifications and approval of the Maryland State Highway Administration in addition to those of Baltimore County.

The location of the proposed Rossville Boulevard Extension from Belair Road westerly, Baltimore County Job Order 5-293-2, will affect this property generally as shown on the submitted plan.

In conjunction with this highway project, Oakhill Avenue is to be connected to Graphill Avenue on a 50-foot right-of-way contiguous and easterly of the westerly property line of the indicated "vacant lot" west of this site.

Also, Graphill Avenue is proposed to be further improved as a 30-foot closed section roadway on a 40-foot right-of-way.

Fillet areas for sight distance will be required at all intersections of these several roads.

Further information may be obtained from the Baltimore County Department of Public Works, Highway Design and Approval Section.

The entrance locations are subject to approval by the Department of Traffic Engineering.

Item #64 (1983-1984)
Property Owner: Anthony F. DiPaula
Page 2
October 3, 1983

Sediment Control:

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.

Storm Drains:

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

Water and Sanitary Sewer:

Public water supply and sanitary sewerage are available to serve this property.

Very truly yours,

Robert A. Morton, P.E.

ROBERT A. MORTON, P.E., Chief

Bureau of Public Services

RM:EW:PMR:ss

cc: J. Trenner - Attn: E. Helinski
G. Wittman - SHA

M-SW Key Sheet

29 NE 21 Pos. Sheet

NE 8 F Topo

61 Tax Map

September 19, 1983

Mr. Arnold Jablon
Zoning Commissioner
County Office Bldg.
Towson, Md. 21204

Attention: Mr. N. Commodari

Re: ZAC Meeting of 9-13-83
ITEM: #64
Property Owner: Anthony F. DiPaula

Location: N/W corner Belair Rd. (Route 1-N) and Oakhill Avenue
Existing Zoning: B.L.
Proposed Zoning: Special Exception for service garage (battery, tire & accessories)
Variance to allow a setback of 2' in lieu of the required 8' to allow a side yard setback of 0' in lieu of the required 10'.
Acres: 0.5109
District: 14th

Dear Mr. Jablon:

The State Highway Administration's Bureau of Engineering Access Permits finds the plan generally acceptable.

The State Highway Administration's Bureau of Project Planning has reviewed the site plan of 7-27-83 and offers the following comments:

The effects of the proposed improvements to U.S. Route 1 have been indicated on the attached plat for Merchants Tire Company, Inc., Belair Road & Graphill Road. The required right of way for the proposed improvements has been shaded in red. Be advised that the U.S. 1 study is in a preliminary stage and development, and that the alternatives and right of way requirements are tentative and subject to revisions.

Very truly yours,

Charles Lee

Charles Lee, Chief

Bureau of Engineering

Access Permits

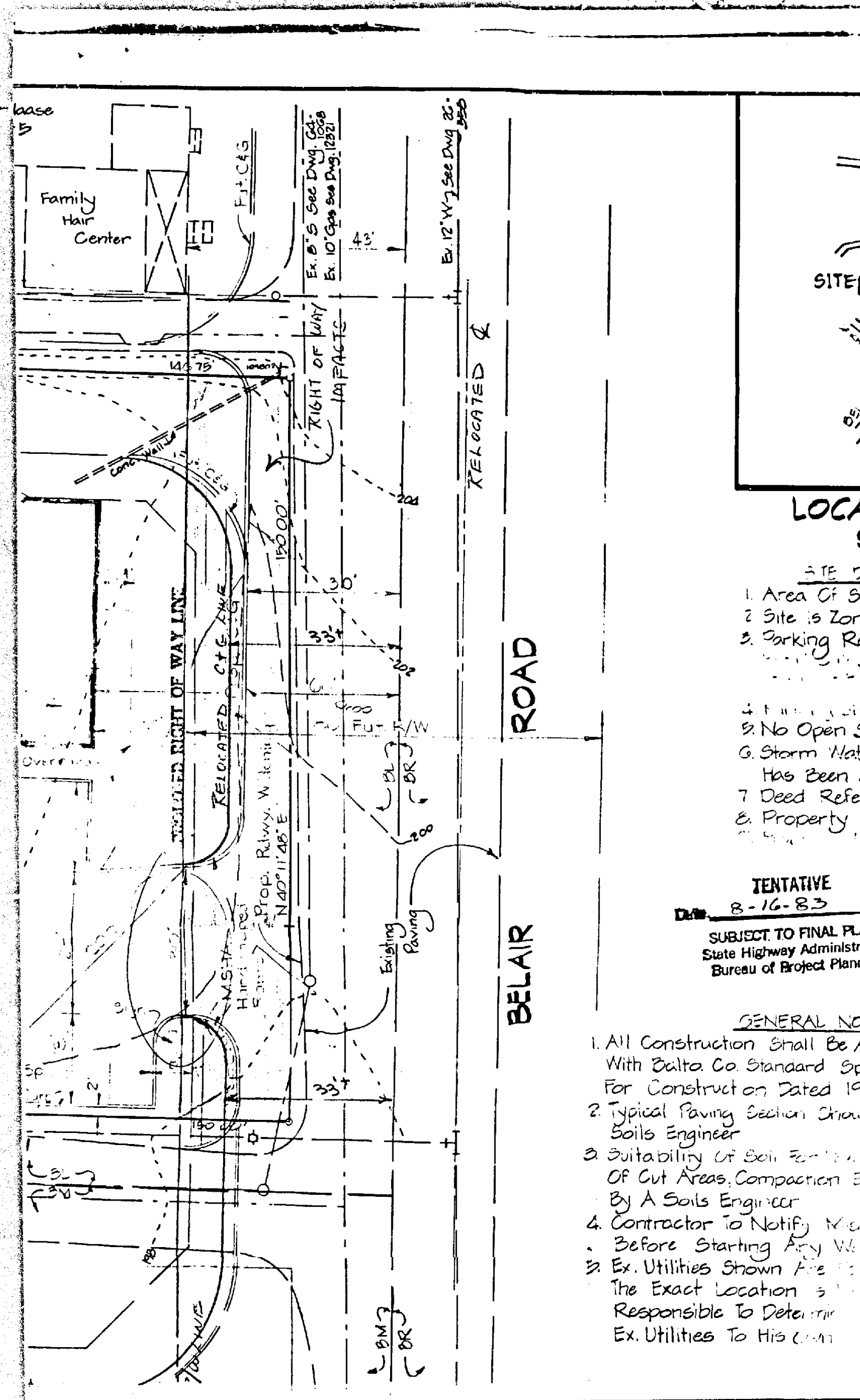
CL:GW:vrd
Attachment
cc: Mr. J. Ogile

My telephone number is 659-1350

Telephone number for impaired hearing or speech

363-7555 Baltimore Metro - 965-0451 D.C. Metro - 1-800-485-5062 Maryland Toll Free

P.O. Box 717 / 707 North Calvert St., Baltimore, Maryland 21203-0717



Maryland Department of Transportation
State Highway Administration

November 21, 1983

Mr. Arnold Jablon
Zoning Commissioner
County Office Bldg.
Towson, Md. 21204

Attention: Mr. N. Commodari

Re: ZAC Meeting of 9-13-83
ITEM: #64
Property Owner: Anthony F. DiPaula
Location: N/W Corner Belair Rd. (Route 1-N) and Oakhill Avenue
Existing Zoning: B.L.
Proposed Zoning: Special Exception for service garage (battery, tire & accessories) Variance to allow a setback of 2' in lieu of the required 8' to allow a side yard setback of 0' in lieu of the required 10'.
Acres: 0.5109
District: 14th

Dear Mr. Jablon:

On review of the revised site plan of 10-31-83, the State Highway Administration finds the plan generally acceptable.

Very truly yours,
Charles Lee, Chief
Bureau of Engineering
Access Permits

By: George Wittman

CL:GW:maw
cc: Mr. J. Ogle

My telephone number is (301) 659-1350
333-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
P.O. Box 717 / 707 North Calvert St., Baltimore, Maryland 21203 - 0717

BALTIMORE COUNTY DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-7550

STEPHEN E. COLLINS
DIRECTOR

November 14, 1983

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. 64
Property Owner: Anthony F. DiPaula
Location: NW/Cor. Belair Road and Oakhill Avenue
Existing Zoning: B.L.
Proposed Zoning: Special Exception for service garage (battery, tire & accessories) Variance to allow a setback of 2' in lieu of the required 8' and to allow a side yard setback of 0' in lieu of the required 10'.
Acres: 0.5109
District: 14th

Dear Mr. Jablon:

The entrance to this site on Belair Road should be moved as far north as possible and the other entrance should be located on Grapewill Avenue.

Michael S. Flanagan
Traffic Engineer Assoc. II

MSF/ccm

BALTIMORE COUNTY DEPARTMENT OF HEALTH

October 20, 1983
Date

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

Zoning Item # 64, Zoning Advisory Committee Meeting of Sept. 13, 1983

Property Owner: Anthony F. DiPaula

Location: NW/Cor. Belair Road District 14

Water Supply: public Sewage Disposal: public

COMMENTS ARE AS FOLLOWS:

- () 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, 434-3775, 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 appearances 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 provided for the elimination of waste oil must be in accordance with Water Resources Administration requirements.

SS 20 1082 (1)

Zoning Item # 64
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: Applicant should contact the Solid and Hazardous Waste Division of this Department regarding the proper disposal of tires, batteries, antirust, etc. If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects report must be submitted.

Lawrence J. Jordan, Director
BUREAU OF ENVIRONMENTAL SERVICES

BALTIMORE COUNTY DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204-2566
494-4500

PAUL H. REINKE
CHIEF

November 29, 1983

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: Anthony F. DiPaula

Location: NW/Cor. Belair Road and Oakhill Avenue

Item No.: 64 Zoning Agenda: Meeting of September 13, 1983

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.

- (X) 1. Fire hydrants for the referenced property are required and shall be located at intervals of 500 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: [Signature] 11-27-83 Noted and Approved: [Signature]
Planning Chief Fire Prevention Bureau
Special Inspection Division

/mb

BALTIMORE COUNTY DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3010

TED ZALESKI JR.
DIRECTOR

Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 64 Zoning Advisory Committee Meeting are as follows:

Property Owner: Anthony F. DiPaula
Location: NW/Cor. Belair Road and Oakhill Avenue
Existing Zoning: B.L.
Proposed Zoning: Special Exception for Service Garage

Acres: 0.5109
District: 14th

The items checked below are applicable:

- X A. All structures shall conform to the Baltimore County Building Code 1981/Council Bill 4-82 State of Maryland Code for the Handicapped and Age; and other applicable Codes.
- X B. A building/_____ permit shall be required before beginning construction.
- C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/are not required. Non-reproducible seals and signatures are required on Plans and Technical Data.
- X D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.
- X E. An exterior wall erected within 6'0" for Commercial uses or 3'0" for One & Two Family use group of an adjacent lot line shall be of one hour fire resistant construction, no openings permitted within 3'0" of lot lines. A fire wall is required if construction is on the lot line, see Table 401, Item 2, Section 1407 and Table 1402, also Section 2012. See also Section 1411.0.
- P. Requested variance appears to conflict with the Baltimore County Building Code, Section/s _____
- G. 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.
- H. Before this office can comment on the above structure, please have the owner, thru the services 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 505 and the required construction classification of Table 1401.
- X I. Comments - Auto service repair garages shall comply with Section 616.1. Please review the last sentence carefully.

NOTES: These comments reflect only on 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 (Plans Review) at 111 W. Chesapeake Ave., Towson.

Very truly yours,
Charles E. Burnham, Chief
Plans Review

CEB:es

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent
Towson, Maryland - 21204

Date: September 14, 1983

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

RE: Item No: 64 65, 66, 67, 68, 69, 70, 71, 72, 73, & 74
Property Owner:
Location:
Present Zoning:
Proposed Zoning:

District:
No. Acres:

Dear Mr. Hammond:

The above mentioned items have no adverse effect on student population.

Very truly yours,
[Signature]
Mr. Nick Petrovich, Assistant
Department of Planning

WNP/bp

IN RE: PETITIONS SPECIAL EXCEPTION AND VARIANCES
NW/corner of Belair Road and Oakhill Avenue - 14th Election District
Anthony F. DiPaula, et al.,
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 84-152-XA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein, Anthony F. DiPaula, et al., request a special exception to build a service garage and, additionally, variances to permit a setback of three feet in lieu of the required eight feet from the street property line for the required parking and a side yard setback of five feet in lieu of the required ten feet, as more fully described on Petitioners' Exhibit 1.

The Petitioners, by their Contract Purchaser, Merchant's, Inc., appeared and presented testimony. Merchant's was represented by Counsel. No Protestants appeared.

The Petitioners' property is zoned B.L. and is presently vacant. The subject property is located within a commercial zone with manufacturing zones adjacent thereto. Larry C. Morgan, Vice President of Merchant's, Inc., testified that Merchant's is a general service center for automobiles that provides general maintenance, i.e., batteries, tires, auto accessories, tune-ups, minor engine repairs, et al. It does not provide service for major engine or transmission problems, nor does it do body and fender work. Merchant's has 51 stores throughout the South Atlantic states and employs 600 people full-time. The general office is in Manassas, Virginia. It is in the process of making Baltimore its third major market. The service center will operate from 7:00 a.m. to 8:00 p.m., Monday through Friday, and 7:00 a.m. to 5:00 p.m., Saturday. Sunday operation depends on local conditions. Mr. Morgan pointed out that there will

be no storage of damaged or disabled vehicles on the premises, although some vehicles may be kept overnight for necessary repairs. These will be parked inside of the garage.

Mr. Duvall, a registered engineer, testified that, based on his experience, the requirements as set forth in Section 502.1 of the Baltimore County Zoning Regulations (BCZR) have been met and that there will be no adverse impact on the public health, safety, or general welfare. He further testified that there will be no adverse traffic problems caused by the proposed service garage. Mr. Morgan, based on his experience in the field, confirmed these points. The expected volume of automobiles serviced by the proposed facility will cause no undue traffic problems or congestion in the streets.

The variances are required in that there is an eight-foot setback for parking spaces from a street property line, and due to the expected relocation of Rossville Boulevard, which will encroach on and replace Oakhill Avenue, a setback of three feet instead of the required eight feet is requested. In addition, a side yard setback of five feet instead of the required ten feet is requested.

The Petitioners seek relief from Section 230.13, pursuant to Section 502.1, BCZR, for a special exception to operate a service garage. They also seek relief from Sections 232.2.b. and 409.2.c.(4), pursuant to Section 307, BCZR, for the requested variances.

It is clear that the zoning regulations permit the use requested by the Petitioners in a B.L. Zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary business uses in the vicinity of the proposed service garage. Therefore, it must be determined whether the conditions as delineated by Section 502.1 are satisfied by the Petitioners.

After reviewing all of the testimony and evidence presented, it appears that the special exception as applied for by the Petitioners should be granted, with certain restrictions as more fully described below.

The Petitioners had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1. In fact, the Petitioners have shown that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest. The facts and circumstances of the use proposed by the Petitioners does not show that the proposed use at the particular location described by Petitioners' Exhibit 1 would have any adverse impact above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way inconsistent with the spirit and intent of the zoning regulations.

An area variance may be granted where strict application of the zoning regulation to the petitioner and his property would cause practical difficulty. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

1. whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
2. whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
3. whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances were to be granted, such use as proposed would not be contrary to the spirit of the regulations and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the instant variances were not to be granted. It has been established that the requirement the Petitioners seek relief from here would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of property, and public hearing held, and it appearing that by reason of the requirements of Section 502.1 having been met and the health, safety, and general welfare of the community not being adversely affected, the special exception and variances should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 24th day of December, 1983, that the Petition for Special Exception for a service garage, together with the Petition for Variances to permit a setback of three feet in lieu of the required eight feet from the street property line for the required parking and a side yard setback of five feet in lieu of the required ten feet, be and are hereby GRANTED, from and after the date of the order, subject, however, to the following restrictions:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. Compliance with the comments submitted by the Baltimore County Zoning Plans Advisory Committee, which are adopted in their entirety and made a part of this Order.
3. A landscaping plan must be submitted for approval to the Current Planning and Development Division.
4. The parking area must be one of the following:
 - a. bituminous concrete surface over a suitable base, or
 - b. portland-cement concrete surface over a suitable base, or
 - c. two or more applications of bituminous surface treatment over a suitable base.

Zoning Commissioner of Baltimore County

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Zoning Commissioner
FROM: Norman E. Gerber, Director of Planning and Zoning
SUBJECT: Anthony F. DiPaula, et al.
84-152-XA

Date: November 22, 1983

This office is not opposed to the granting of this request. If granted, it is requested that a landscaping plan, submitted to and approved by the Division of Current Planning and Development, be required.

Norman E. Gerber per J. H. Howell
Norman E. Gerber
Director of Planning and Zoning

NEG:JGH:cav

W. DUVAL & ASSOCIATES

Engineers / Land Planning Consultants

August 15, 1983

ZONING DESCRIPTION
MERCHANTS TIRE CO., INC.

Beginning for the same at the corner formed by the intersection of the northwest side of Belair Road with the northeast side of Oak Hill Avenue as laid out on the Plat of Oak Hill hereinafter referred to, and running thence binding on the west side of Belair Road N40° 11' 48" E, 150.00'; thence leaving said Belair Road and running the three following courses to the point of beginning: N48° 33' 44" W, 146.75'; S41° 26' 16" W, 150.00'; S48° 33' 44" E, 150.00'. Being Lots Nos. 17, 18 and 19 as shown on the Plat of Oak Hill, which Plat is recorded among the Land Records of Baltimore County in Plat Book W.P.C. No. 5 folio 65



416 E. Joppa Road / Towson, Maryland 21204 / (301) 583-9571

PETITIONS FOR SPECIAL EXCEPTION AND VARIANCES

14th Election District
ZONING: Petitions for Special Exception and Variances
LOCATION: Northwest corner of Belair Road and Oakhill Avenue
DATE & TIME: Wednesday, December 14, 1983 at 1:30 P.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 Special Exception for service garage (battery, tire and accessories) and Variances to allow a setback of 3 ft. in lieu of 8 ft. from the street property line and to allow a side yard setback of 5 ft. in lieu of 10 ft.

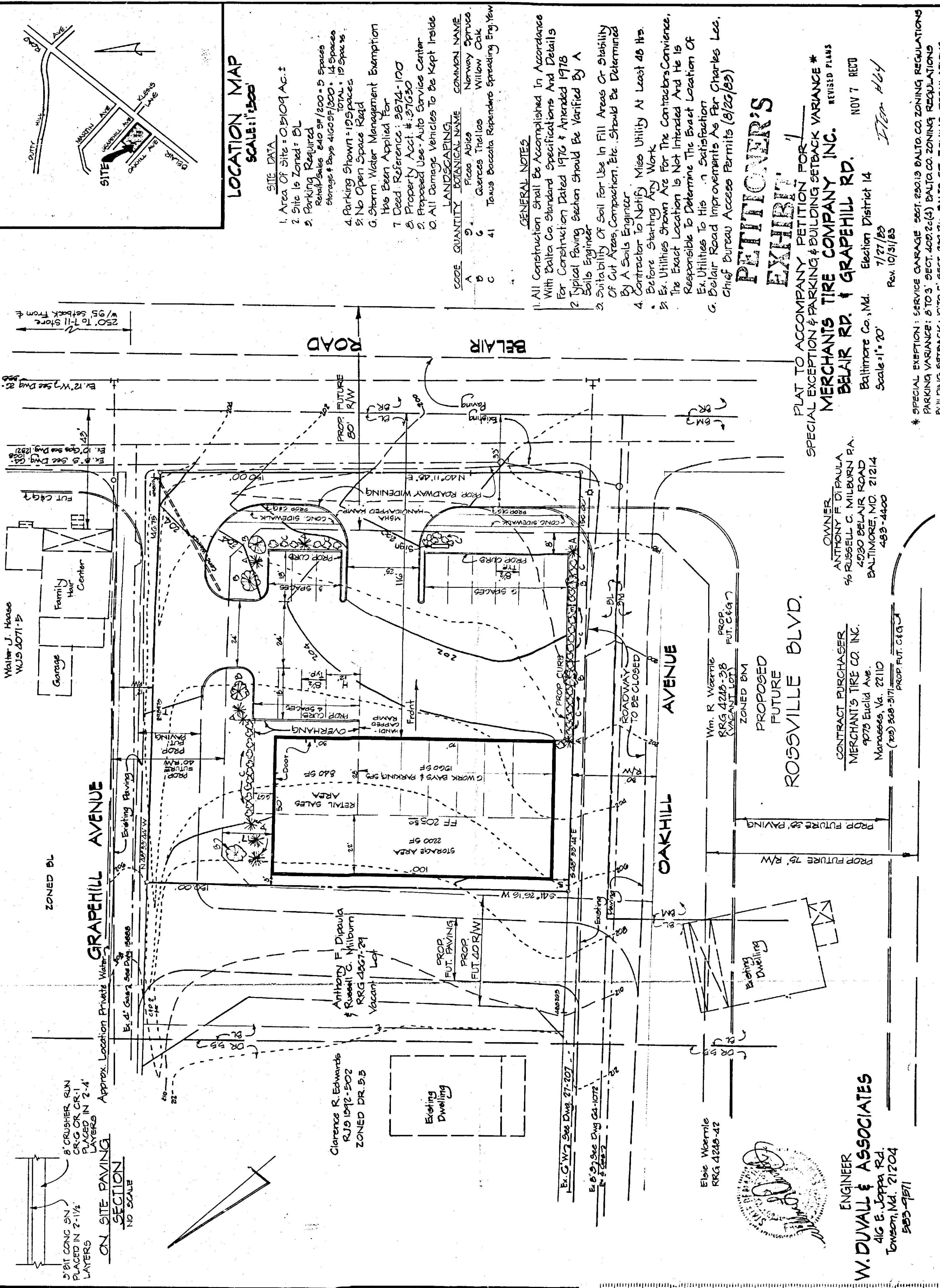
The Zoning Regulation to be excepted as follows:
Section 409.2c(4) - setback of parking spaces to a street property line
Section 232.2b - side yard setback in B.L. Zone

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

Being the property of Anthony F. DiPaula, et al., as shown on plat plan filed with the Zoning Department.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY



LOCATION MAP
SCALE: 1"=500'

SITE DATA
1. Area Of Site = 0.0109 AC.
2. Site Is Zoned = DL
3. Parking Required
Storage & Bay 4100 SF / 100 = 5 Spaces
TOTAL: 19 Spaces
4. Parking Shown = 19 Spaces
5. No Open Space Road
6. Storm Water Management Exemption
Has Been Applied For
7. Dead Reference: 5874-100
8. Property Acc't #: 37050
9. Proposed Use - Auto Service Center
10. All Damaged Vehicles To Be Kept Inside

LANDSCAPING

CODE	QUANTITY	BOTANICAL NAME	COMMON NAME
A	9	Picea Abies	Norway Spruce
B	6	Quercus Treilias	Willow Oak
C	41	Taxus Baccata	Repensens Spreading Eng. Yew

GENERAL NOTES
1. All Construction Shall Be Accomplished In Accordance With Baltimore Co. Standard Specifications And Details For Construction Dated 1976 & Amended 1978
2. Typical Paving Section Should Be Verified By A Soils Engineer
3. Suitability Of Soil For Use In Fill Areas Or Stability Of Cut Areas, Compaction, Etc. Should Be Determined By A Soils Engineer
4. Contractor To Notify Miss Utility At Least 48 Hrs. Before Starting Any Work
5. Ex. Utilities Shown Are For The Contractors Convenience. The Exact Location Is Not Intended And He Is Responsible To Determine The Exact Location Of Ex. Utilities To His Satisfaction
6. Belair Road Improvements As Per Charles Lee, Chief Bureau Access Permits (8/26/85)

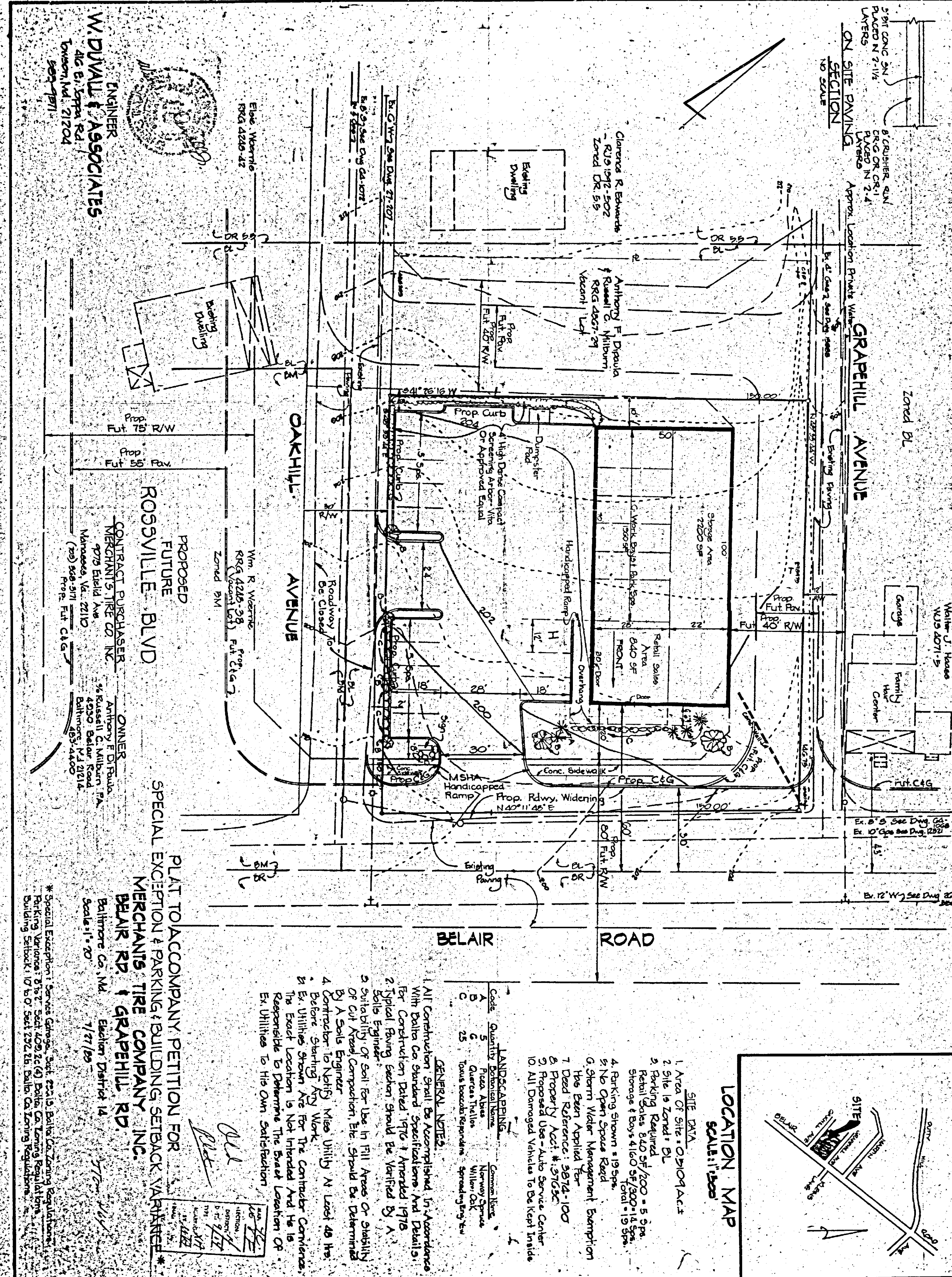
PETITIONER'S
EXHIBIT

PLAT TO ACCOMPANY PETITION FOR
SPECIAL EXCEPTION & BUILDING SETBACK VARIANCE *
MERCHANTS TIRE COMPANY INC.
BELAIR RD. & GRAPEHILL RD.
Baltimore Co., Md. Election District 14
Scale 1" = 20'
7/27/85
Rev. 10/31/85

OWNER
ANTHONY F. DI PAULA
% RUSSELL C. MILBURN PA.
4290 BELAIR ROAD
BALTIMORE MD 21214
433-4400

CONTRACT PURCHASER
MERCHANTS TIRE CO. INC.
9775 Euclid Ave.
Manassas, Va. 22110
(703) 368-3171

ENGINEER
W. DUVAL & ASSOCIATES
410 E. Joppa Rd.
Towson, Md. 21204
1161-503



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PLAT TO ACCOMPANY PETITION FOR
SPECIAL EXCEPTION & PARKING & BUILDING SETBACK VARIANCE *
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