

PETITION FOR ZONING VARIANCE 84-287-A
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 102.5 to allow a fence six (6) feet high, instead of the permitted three (3) foot fence within twenty-five (25) feet at the point of intersection of two (2) streets.

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

1. That if not granted would cause petitioner great expense to remove and replace in that permit already granted.
2. That for safety reason - six feet better than 3 feet for children and traffic.
3. For other reasons to be presented at hearing.

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 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:

Mark P. Hanley

(Type or Print Name)

Signature

206 Washington Avenue

Address

TOWSON, Maryland 21204

City and State

Attorney's Telephone No: 223-1174

Legal Owner(s):

James J. Rowe

(Type or Print Name)

Signature

Frances Ann Rowe

(Type or Print Name)

Signature

Address

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

City and State

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HARRY J. P. STELLER
DIRECTOR

March 21, 1984

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

Re: Item #200 (1983-1984)
Property Owner: James J. Rowe, et ux
N/E cor. First Ave. and Woodland Rd.
Acres: 60 X 156 District: 11th

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.

General:

Baltimore County highway and utility improvements are not directly involved.
First, Woodland and 2nd Avenues, existing public roads, are proposed to be further improved in the future on 40-foot minimum, and 50-foot rights-of-way, respectively, with fillet areas for sight distance at all intersections.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 200 (1983-1984).

Very truly yours,

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

RAM:EAM:PNW:SS

N-NE Key Sheet
34 NE 18 Pos. Sheet
NE 9 E Topo
71 Tax Map

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon
To: Zoning Commissioner
Date: April 11, 1984
Norman E. Gerber, Director
From: Office of Planning and Zoning
James J. Rowe, et ux
SUBJECT: 84-287-A

There are no comprehensive planning factors requiring comment on this petition.

Norman E. Gerber, Director
Office of Planning and Zoning

NEG/JGH/sf

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

April 17, 1984

COUNTY OFFICE BLDG.
111 W. CHESAPEAKE AVE.
TOWSON, MARYLAND 21204
000
NICHOLAS S. COMODARI
Chairman

Mark P. Hanley, Esquire
206 Washington Avenue
Towson, Maryland 21204

RE: Case No. 84-287-A (Item No. 200)
Petitioner - James J. Rowe, et ux
Variance Petition

Dear Mr. Hanley:

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.

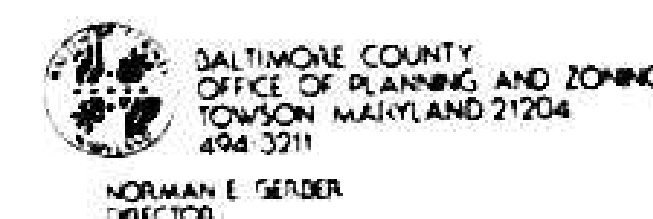
Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing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

Very truly yours,

NICHOLAS S. COMODARI
Chairman
Zoning Plans Advisory Committee

MSF/SSC

Encs: 4/17/84



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

3/14/84

Re: Zoning Advisory Meeting of 3/14/84
Item # 200
Property Owner: James J. Rowe, et ux
Location: N/E cor. First Ave. and Woodland Rd.

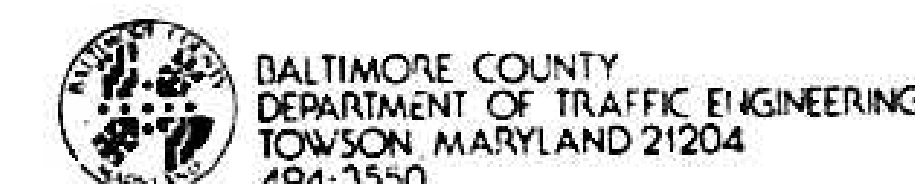
Dear Mr. Jablon:

The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are applicable.

- () There are no site planning factors requiring comment.
- () A County Review Group Meeting is required.
- () A County Review Group meeting was held and the minutes will be forwarded by the Bureau of Public Services.
- () This site is part of a larger tract; therefore it is defined as a subdivision. The plan must show the entire tract.
- () A record plat will be required and must be recorded prior to issuance of a building permit.
- () The access is not satisfactory.
- () The circulation on this site is not satisfactory.
- () The parking arrangement is not satisfactory.
- () Parking calculations must be shown on the plan.
- () This property contains soils which are defined as wetlands, and development on these soils is prohibited.
- () Construction in or alteration of the floodplain is prohibited under the provisions of Section 22-94 of the Development Regulations.
- () Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
- () The amended Development Plan was approved by the Planning Board on 3/14/84.
- () Landscaping should be provided on this site and shown on the plan.
- () The property is located in a deficient service area as defined by Bill 178-79. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The deficient service is 18.
- () The property is located in a traffic area controlled by a "D" level intersection as defined by Bill 178-79, and as conditions change traffic capacity may become more limited. The Basic Services Areas are re-evaluated annually by the County Council.
- () Additional comments:

Eugene A. Bober
Chief, Current Planning and Development

cc: James Hozue



STEPHEN E. COLLINS
DIRECTOR

March 9, 1984

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

Item No. 200 -ZAC- Meeting of February 7, 1984
Property Owner: James J. Rowe, et ux
Location: NE/Cor. First Avenue and Woodland Road
Existing Zoning: U.R. 5.5
Proposed Zoning: Variance to permit a fence 6' in lieu of the required 3' within 25' at the point of intersection of two streets.

Acres: 60 X 156
District: 11th

Dear Mr. Jablon:

The proposed fence should be moved 10 feet from the property line of Second Avenue to improve sight distance.

Michael S. Flanigan
Traffic Engineering Assoc. II

MSF/ccm

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 Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the herein Petition for Variance(s) to permit

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
TO: _____ Date: March 9, 1984
FROM: Ian J. Forrest
SUBJECT: Zoning Variance Items
February 7, 1984

The Baltimore County Department of Health has reviewed the following zoning items and does not anticipate any health hazards at this time regarding these items.

- Item # 195 - John J. Seisman, III, et ux
- Item # 196 - Richard E. Smith, et ux
- Item # 197 - Denver G. Bush
- Item # 199 - Joseph E. Deuche
- Item # 200 - James J. Rowe, et ux

[Signature]
Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

LJP/rth



BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204
825-7300

PAUL H. RENCKE
CHIEF

February 13, 1984

Mr. William Rowland
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: James J. Rowe, et ux

Location: First Avenue and Woodland Road

Item No.: 200

Zoning Agenda: Meeting of February 7, 1984

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 of _____ 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.
- () 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.
- (X) 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWED: *[Signature]* 2-14-84
Planning Group
Special Inspection Division

Noted and

Approved: *[Signature]*
Fire Prevention Bureau

fmh



BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3040

TED ZALISH, JR.
DIRECTOR

February 7, 1984

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

Dear Mr. Jablon:

Comments on Item # 200 Zoning Advisory Committee Meeting are as follows:

Property Owner: James J. Rowe, et ux
Location: NE/Cor. First Avenue and Woodland Road
Existing Zoning: D.R. 5-5
Proposed Zoning: Variance to permit a fence 6' in lieu of the required 3' within 25' at the point of intersection of two streets.

Acres: 60 x 156
District: 11th.

The items checked below are applicable:

- (X) A. All structures shall conform to the Baltimore County Building Code 1981/Council Bill 4-82, and other applicable codes.
- (X) B. A building/other permit shall be required before beginning construction.
- (X) C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/are not required. Non-reproduced 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 resistive construction, no openings permitted within 3'0" of lot lines. A firewall is required if construction is on the lot line, see Table 401, line 2, Section 1107 and Table 1102, also Section 503.2.
- (X) F. Requested variance appears to conflict with the Baltimore County Building Code, Section/s _____.
- (X) 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.
- (X) 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 401.
- (X) I. Comments - Please see Section 518.0 of Bill 4-82 which also establishes some fencing limitations. This does not of course take into account visibility problems with street lot lines.

NOTE: 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,

[Signature]
Charles E. Burdick, Chief
Plans Review

CEB:ee

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert V. Dubal, Superintendent

Towson, Maryland - 21204

Date: February 2, 1984

Mr. Arnold Jablon
Zoning Commissioner
Baltimore County Office Building
1111 West Chesapeake Avenue
Towson, Maryland 21204

Z.A.C. Meeting of: February 7, 1984

RE: Item No.: 195, 196, 197, 198, 199, (200), 201, & 202.
Property Owner:
Location:
Present Zoning:
Proposed Zoning:

District:
No. Acres:

Dear Mr. Jablon:

The above items have no bearing on student population.

Very truly yours,

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

MPH/lh

14-1042
10-Can 211
1984
MARK P. HANLEY, JR.
206 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

May 4, 1984

Mr. America Connella
3017 First Avenue
Baltimore, MD. 21234

RE: ROWE ZONING HEARING
April 10, 1984
14-287A

Dear Mr. Connella:

Subsequent to the hearing of Monday, April 30, 1984, it is my understanding that you suggested to Mr. Jerry Rowe that if the Rowes abandon their ideas of petitioning to close Woodland Avenue, that you and the other neighbors would drop your protest concerning the six foot fence surrounding the Rowe's residence. If this is, in fact true, could you confirm by writing to me.

Very truly yours,

Mark P. Hanley, Jr.

MPH/lrr

cc: Mr. and Mrs. Rowe

cc: Arnold Jablon, Zoning Commissioner

RE: PETITION FOR VARIANCE : BEFORE THE ZONING COMMISSIONER
NE Corner First Ave. & Wood-
land Rd., 11th District : OF BALTIMORE COUNTY
JAMES J. ROWE, et ux. : Case No. 84-287-A
Petitioners

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

[Signature]
Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

[Signature]
Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, MD 21204
494-2188

I HEREBY CERTIFY that on this 10th day of April, 1984, a copy of the foregoing Entry of Appearance was mailed to Mark P. Hanley, Esquire, 206 Washington Ave., Towson, MD 21204, Attorney for Petitioners.

[Signature]
Phyllis Cole Friedman
Phyllis Cole Friedman

ZONING DESCRIPTION

Beginning for the same on the Northeast Corner of First Avenue and Woodland Road, being Lot Numbers 344, 345 and 346 on Plat of Carney Heights and recorded among the land records for Baltimore County in W. P. C. 6 folio 158, also known as 3039 Second Avenue.

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

February 8, 1984

Mark P. Hanley, Esquire
206 Washington Avenue
Towson, Maryland 21204

RE: Item No. 200
Petitioner - James J. Rowe, et ux
Variance Petition

Dear Mr. Hanley:

Recently, a meeting was held with various members of this Committee in order to discuss the above referenced petition. At that time, it was verbally indicated that revised site plans, reflecting comments from the following department(s), would be required.

Mr. Charles Burnham - Permits & Licenses - 494-3987

Mr. Nick Commodari - Zoning Office - 494-3391

In order to avoid any future delays in processing this petition, I urge you to personally contact the representative(s) from the above department(s) and discuss the required revisions. When discussing this petition, it should be referred to by the item number. Since it will save you approximately 3-4 weeks in the processing of your petition, this matter should be pursued immediately.

After discussing the comments with the above representative(s), you should contact me at 494-3391 in order to determine the outcome of said discussion and what your future course of action will be.

Very truly yours,

NICHOLAS B. COMMODARI, Chairman
Zoning Plans Advisory Committee

NBC:bsc

May 14, 1984

Mark P. Hanley, Esquire
206 Washington Avenue
Towson, Maryland 21204

IN RE: Petition Zoning Variance
NE/corner of First Avenue and
Woodland Road - 11th Election
District
James J. Rowe, et ux,
Petitioners
Case No. 84-287-A

Dear Mr. Hanley:

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

Sincerely,

ARNOLD JABLON
Zoning Commissioner

AJ/arj

Attachments

cc: Mr. & Mrs. Donald Mealy
3008 First Avenue
Baltimore, Maryland 21234

Mr. Amerco Cannella
3012 First Avenue
Baltimore, Maryland 21234

People's Counsel

LAW OFFICES
MARK P. HANLEY, JR.
206 WASHINGTON AVENUE
P. O. BOX 5506
TOWSON, MARYLAND 21204

TELEPHONE
(301) 283-1174

May 31, 1984

Zoning Commissioner of Baltimore County
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: Petition Zoning Variance
N/E Corner of First Avenue
and Woodland Road
11th Election District
Case No. 84-287-A

Dear Sir:

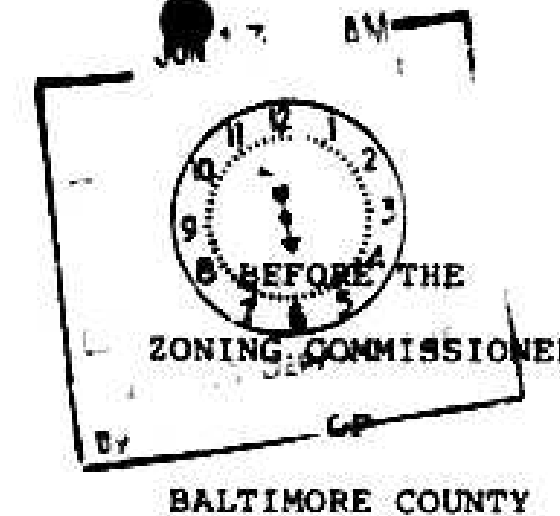
Enclosed for filing in the above entitled case please find an Order for Appeal on behalf of the Petitioners, James J. and Frances Ann Rowe.

Very truly yours,

Mark P. Hanley, Jr.

ccv
Enclosure

cc: Mr. and Mrs. James J. Rowe



IN RE:

PETITION ZONING VARIANCE
N/E corner of First Avenue and
Woodland Road - 11th Election
District

JAMES J. ROWE
3039 Second Avenue
Baltimore, MD 21234
and
FRANCES ANN ROWE
3039 Second Avenue
Baltimore, MD 21234

Petitioners
Appellants

ORDER FOR APPEAL

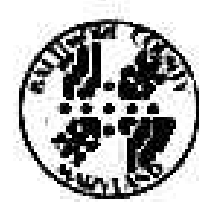
Petitioners, James J. Rowe and Frances Ann Rowe, by Mark P. Hanley, Jr., their attorney, hereby note an appeal to the County Board of Appeals from the Order of the Zoning Commissioner of Baltimore County dated May 14, 1984 in the above entitled case.

MARK P. HANLEY, JR.
Attorney for Petitioners
206 Washington Avenue
P. O. Box 5506
Towson, Maryland 21204
823-1174

CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 13th day of June, 1984 that I have mailed by first class mail, postage prepaid, a copy of this Order for Appeal to: Mr. & Mrs. Donald Mealy, 3008 First Avenue, Baltimore, MD 21234, to Mr. Amerco Cannella, 3012 First Avenue, Baltimore, MD 21234, and to Phyllis Friedman, Peoples Counsel, Court House, Towson, Maryland 21204.

Mark P. Hanley, Jr.



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

ARNOLD JABLON
ZONING COMMISSIONER

June 14, 1984

Mr. & Mrs. Donald Mealy
3008 First Avenue
Baltimore, Maryland 21234

Re: Petition for Variance
NE/corner of First Avenue and Woodland Road
James J. Rowe, et ux - Petitioners
Case No. 84-287-A

Dear Mr. & Mrs. Mealy:

Please be advised that an appeal has been filed by Mark P. Hanley, attorney for the petitioners, from the decision rendered by the 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,

ARNOLD JABLON
Zoning Commissioner

AJ:aj

cc: Mr. Amerco Cannella
3012 First Avenue
Baltimore, Maryland 21234

People's Counsel

April 3, 1984

Mark P. Hanley, Esquire
206 Washington Avenue
Towson, Maryland 21204

NOTICE OF HEARING

Re: Petition for Variance
NE/corner of First Avenue & Woodland Road
James J. Rowe, et ux - Petitioners
Case No. 84-287-A

TIME: 10:45 A.M.

DATE: Monday, April 30, 1984

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

Zoning Commissioner
of Baltimore County

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

No. 124099

DATE: 4/27/84 ACCOUNT: 81-615-000

AMOUNT: 35.00

PAID BY: Mark P. Hanley, Jr.

FOR: Filing Fee for Case No. 84-287-A

0 01300000000000 5276A

VALIDATION OR SIGNATURE OF CARRIER

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

No. 131905

DATE: 5/27/84 ACCOUNT: 2-8-411-000

AMOUNT: 200.00

PAID BY: Frances A. Rowe

FOR: Appeal of Case No. 84-287-A

0 04000000000000 5276A

VALIDATION OR SIGNATURE OF CARRIER

The Times

Middle River, Md., April 12, 1984

This is to Certify, That the annexed

was inserted in The Times, a newspaper printed
and published in Baltimore County, once in each
of _____ successive
weeks before the _____ day of _____
1984.
S. D. [Signature] Publisher.

CERTIFICATE OF PUBLICATION

TOWSON, MD., April 12, 1984

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 each
of _____ successive weeks before the _____ day of _____
1984, the last publication
appearing on the _____ day of _____
1984.

THE JEFFERSONIAN

[Signature]
Manager

Cost of Advertisement, \$ 18.00

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11 Date of Posting: 4/15/84
Posted for: Petition for Variance
Petitioner: James J. Rowe, et ux
Location of property: NE 1/4 of East side of Woodland Rd.
Location of sign: NE 1/4 of property (facing East side)
Remarks: [Signature]
Posted by: [Signature] Date of return: 4/19/84
Number of Signs: 1

ARNOLD JABLON
ZONING COMMISSIONER

April 29, 1984

Mark P. Hanley, Esquire
206 Washington Avenue
Towson, Maryland 21204

Re: Petition for Variance
NE/corner First Avenue & Woodland Road
James J. Rowe, et ux - Petitioner
Case No. 84-287-A

Dear Mr. Hanley:

This is to advise you that \$40.64 is due for advertising and posting of the above property.

This fee must be paid and our zoning sign and post returned on the day of the hearing before an Order is issued. Do not remove sign until day of hearing.

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

Sincerely,

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

No. 130288

DATE 4-30-84 ACCOUNT 01-615-180

AMOUNT \$40.64

RECEIVED FROM James J. Rowe -

FOR Advt & Posting - 84-287-A

655-000040541b 2205A

VALIDATION OR SIGNATURE OF CASHIER

IN RE: PETITION ZONING VARIANCE
NE/corner of First Avenue and
Woodland Road - 11th Election
District
James J. Rowe, et ux,
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 84-287-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to allow a fence six feet high instead of the permitted three-foot-high fence within 25 feet of the point of intersection of two streets, as shown on Petitioners' Exhibit 1.

The Petitioners appeared and Mrs. Rowe testified. They were represented by Counsel. Protestants also appeared of which Mr. and Mrs. Donald Mealy and Amerco Cannella testified.

Testimony indicated that the subject property, zoned D.R.5.5, faces Second Avenue with its rear on First Avenue, which is unpaved and undedicated at that location. Adjacent to the Petitioner's property is Woodland Avenue, also undedicated and unpaved. Woodland Avenue is a street which has never been assumed by the County although recorded in 1922. In July, 1982, the Petitioners applied for and received permission to build a swimming pool and a six-foot-high fence about their property to keep children away from the pool. The fence begins on Woodland Avenue to the rear of the Petitioners' house and encircles the property line ending parallel to the opposite side of the house at the inside property line as more fully shown on Petitioners' Exhibit 7. Photographs introduced by both the Petitioners and the Protestants clearly show the fence. See Petitioners' Exhibits 4 and 5 and Protestants' Exhibits 5 through 11.

Mrs. Rowe testified that the fence was for privacy and for the protection and safety of neighborhood children. Additionally, traffic on Woodland and

First Avenues is light because the streets are not utilized very much. She knows of no vehicle accidents nor of near misses at the juncture of Woodland and First Avenues. The Petitioners do not want to reduce the height of the fence because it would be expensive and would not be practical.

The Protestants argue that these two streets are used by local traffic and by garbage trucks and other heavy vehicles. The height of the fence causes a severe danger to such traffic because it obstructs the view of vehicles using either Woodland or First Avenues. It is a traffic hindrance. Testimony by the Protestants is that there has been at least one near miss and one accident in which a car landed in a ditch on the opposite side of Woodland Avenue although no evidence exists that the height of the fence was the cause or the effect of the accident.

Mrs. Mealy testified that without the fence, visibility from Second Avenue of First Avenue around the curve was excellent at 25 to 50 feet; with the fence, there is no visibility at all. Other arguments were raised by the Protestants, but none are applicable to the relief prayed for here.

It is relevant to take notice of the permit application, Petitioners' Exhibit 3, which seems to indicate that the height and length of the fence requested was altered. Certainly, there is no question that the Petitioners' house is located on a corner, and Section 102.5 of the Baltimore County Zoning Regulations (BCZR) is clear that the height of a fence is restricted in such situations. Nonetheless, the Petitioners did not personally apply for the permit, their contractor did. The pool was constructed by the contractor, and the Petitioners constructed the fence. If the height was altered after the permit was issued, a criminal offense has been committed. If not, a mistake was made in the Zoning Office when the permit was approved. If the former, and there is no direct evidence other than the permit itself, the issue is moot. If the

latter, possible estoppel may be applicable to the enforcement of the BCZR at issue here. Only when the municipal agent acts in good faith within the scope of his authority, but in error, can the occasion for invocation of estoppel arise. 3 Rathkopf, Law of Zoning & Planning (4th Ed., 1982), Section 45.05 [3][d]; Jantusch v. Vermont, 131 A.2d 881 (N.J., 1957). The Petitioners would have a right to a defense of estoppel if they could factually demonstrate that the requisite components of estoppel are met.

Estoppel always requires proof that the party against whom estoppel is claimed must do or say something calculated or intended to induce another party to believe that certain facts exist and to act on that belief. The other party must also change its position in reliance on those facts, thereby causing some injury. There must be good faith by a party acting on affirmative acts of the municipality. Saah v. D.C. Bd. of Zoning Adjustment, 433 A.2d 1114 (D.C., 1981). In municipal zoning cases, however, estoppel may be invoked only with great caution, only when special circumstances make it highly inequitable or oppressive to enforce the regulations. BA McQuillin, Municipal Corporations, Sections 25.349 and 27.56; 3 Rathkopf, supra, 45-38. The defense of estoppel is based on a substantial burden of proof, a requirement to show that the agents of Baltimore County acted to induce reliance and that such reliance was to the detriment to such an extent that enforcement of the regulations would be "highly inequitable or oppressive". Zoning Commission v. Lescynski, 453 A.2d 1144 (Conn., 1982).

The Petitioners have failed to satisfy this burden. The Petitioners seek relief from Section 102.5, pursuant to Section 307, BCZR. The Petitioners maintain that the variance should be granted inasmuch as it would create a practical difficulty if it were denied and would serve no useful

purpose, especially in light of the reasons behind the fence. In fact, the crux of their argument is that the cost of removing the fence would be too great although no estimate of such cost was made. This argument lacks merit and any practical difficulty emanating therefrom is immaterial. The fact that the cost of the fence or the potential cost of reducing the height is great is not a factor to be considered when such facts and circumstances exist. Salisbury Bd. of Zoning Appeals v. Bonds, 240 Md. 547.

A landowner can establish a right to a variance by showing that the effect of the regulations is to burden his property with an unreasonable hardship that is unique to his property. This can be accomplished by showing that the physical or topographical features of the property are such that the property cannot be used for a permitted purpose, or by showing that the property can be arranged for such use only at a prohibitive expense. Anderson v. Bd. of Appeals of Town of Chesapeake Beach, 22 Md. App. 28 (1974); Marlowe v. Zoning Hearing Bd. of Haverford Township, 415 A.2d 946 (Pa. Cmwlth., 1980).

The Court of Special Appeals has held that a variance relating to certain "area" restrictions, as distinguished from restrictions on the use of the property, must be judged under the "practical difficulty" test. Anderson, supra. See Bd. of Adjustment, Etc. v. Kirk-Cheek Realty, 389 A.2d 1289 (Del. Supr., 1978). As noted in Anderson, the factors to be considered under this test in determining whether a variance should be granted are:

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 district or whether a lesser relaxation than that applied for would give substantial relief;
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, supra.

The implication of the collective testimony is that the fence within 25 feet in either direction from the intersection of Woodland and First Avenues can easily be converted from six feet to three feet. It is obvious from the photographs that a clear and present danger exists by the existence of a six-foot-high fence at this intersection. Obstruction to view and therefore of traffic has resulted, and it need not be if the spirit and intent of Section 102.5 is met. The Petitioners have a choice. They can remove three feet from the fence 25 feet in each direction or they can measure 25 feet from the intersection down Woodland and First Avenues and relocate the fence at the diagonal line connecting from the terminus of each measured distance. Either is not only possible but manageable. Either is justified under the conditions described here.

The spirit and intent of the BCZR can be observed and public safety and welfare secured only if the Petitioners are in actual compliance.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should not be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 14th day of May, 1984, that the Petition for Variance to allow a fence six feet high instead of the permitted three-foot-high fence within 25 feet of the point of intersection of two streets be and is hereby DENIED.

Arnold Jablon
Zoning Commissioner of
Baltimore County

PETITION FOR VARIANCE
11th Election District

ZONING: Petition for Variance
LOCATION: Northeast corner of First Avenue and Woodland Road
DATE & TIME: Monday, April 30, 1984 at 10:45 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 Variance to permit a fence 6 ft. high, instead of the permitted 3 ft. within 25 ft. at the point of intersection of 2 streets

Being the property of James J. Rowe, et ux, 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

LAW OFFICES
MARK P. HANLEY, JR.
206 WASHINGTON AVENUE
P.O. BOX 5508
TOWSON, MARYLAND 21204

May 10, 1984

Arnold Jablon
Zoning Commissioner
Baltimore County
Office of Planning & Zoning
Towson, Maryland 21204

JAMES E. Hanley
RE: ZONING HEARING
Case Number: 84-182
April 30, 1984

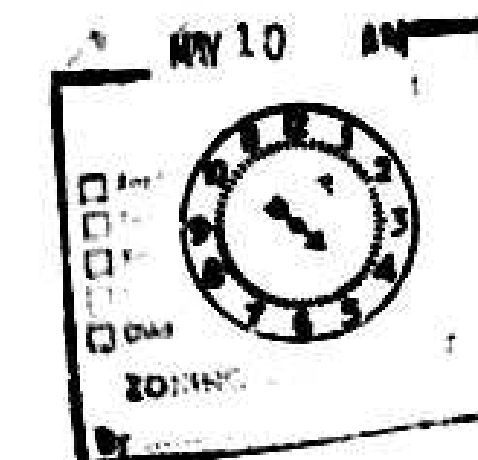
Dear Mr. Jablon:

Herewith enclosed please find a note from Hohne Pools & Spas which is self-explanatory.

Very truly yours,

Mark P. Hanley, Jr.

MPH/lrr
Encl.





We Bring You
The Good Life

L.C. Hohne's Filed For
A 6' Privacy Fence At The
Same Time Pool Permit Was
Filed For.

David Bonar
L.C. Hohne Conts.

Authorized Factory Direct Dealer of
Pools, Spas, Hot Tubs & Steam Saunas

7/2/84 - Notified of appeal hearing scheduled for TUESDAY, OCTOBER 9, 1984 at 10 a.m.

Mark P. Hanley, Esq.
James J. Rowe
Donald Mealy
Amerco Cannella
Phyllis C. Friedman

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11
Posted for: Board of Appeals
Petitioner: James J. Rowe, et al.
Location of property: 1116 East Ave. & Woodland Rd.
Location of Sign: 1116 East Ave. (Property Line)
Remarks: 1116 East Ave. - East side of road
Posted by: [Signature]
Number of Signs: 1

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11
Posted for: Board of Appeals
Petitioner: James J. Rowe, et al.
Location of property: 1116 East Ave. & Woodland Rd.
Location of Sign: 1116 East Ave. (Property Line)
Remarks: 1116 East Ave. - East side of road
Posted by: [Signature]
Number of Signs: 1

IN RE: PETITION ZONING VARIANCE
NE/CORNER OF First Avenue and
Woodland Road - 11th Election
District

BEFORE THE
COUNTY BOARD OF APPEALS
FOR
BALTIMORE COUNTY
Case No. 84-287-A

REQUEST FOR SUBPOENA

MR. CLERK:

Please issue a subpoena commanding MR. SULLIVAN, of the
Zoning Department, Baltimore County, County Office Building,
Towson, Maryland, to be and appear to testify before the County
Board of Appeals, Room 218, Court House, Towson, Maryland
21204, on behalf of the Petitioners in the above entitled case,
on Tuesday, October 9, 1984 at 10:00 A.M.

MARK P. HANLEY, JR.
206 Washington Avenue
P. O. Box 5506
Towson, Maryland 21204
823-1174
Attorney for Petitioners

Mr. Sheriff:

Please issue the above summons.

June Holmen
June Holmen, Board of Appeals

RECEIVED
COUNTY BOARD OF APPEALS
MAR 01 2 4 9 21

(from the desk of)

DONALD J. ROOP, M.D.

March 1, 1985

Phyllis C. Friedman, Esq.
People's Counsel

For your information:

DJR

cc: Kay Drayton, Day Care Coordinator

84-287-A
11th District
NE/cor. First Avenue and Woodland Road
James J. Rowe, et al.
1 1984

IN RE: 1984 OCT - 2 PM 3:00
PETITION ZONING VARIANCE
NE/CORNER OF First Avenue and
Woodland Road - 11th Election
District

BEFORE THE
COUNTY BOARD OF APPEALS
FOR
BALTIMORE COUNTY
Case No. 84-287-A

REQUEST FOR SUBPOENA

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Please issue a subpoena commanding MR. SULLIVAN, of the
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on Tuesday, October 9, 1984 at 10:00 A.M.

COST \$ 5.00
SUMMONED 10-3 19
NOT SERVED 19
SHERIFF
OF BALTIMORE COUNTY
J. EDWARD MANNING

MARK P. HANLEY, JR.
206 Washington Avenue
P. O. Box 5506
Towson, Maryland 21204
823-1174
Attorney for Petitioners

Mr. Sheriff:

Please issue the above summons.

June Holmen
June Holmen, Board of Appeals

RECEIVED
COUNTY BOARD OF APPEALS
MAR 01 2 4 9 21



Baltimore County, Maryland

PEOPLE'S COUNSEL
RM. 223, COURT HOUSE
TOWSON, MARYLAND 21204
494-2-88

PHYLLIS COLE FRIEDMAN
People's Counsel

PETER MAX ZIMMERMAN
Deputy People's Counsel

March 4, 1985

The Honorable
William T. Hackett, Chairman
County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

RE: Gloria L. Dorsey, Petitioner
Zoning Case No. 84-329-SPH

Dear Chairman Hackett:

In accordance with your instructions in the above-referenced case,
please find enclosed a fully executed copy of a "Findings of Fact and
Consent Order" in the matter of Eastwood Day Nurseries.

Very truly yours,

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Enclosure

PCF:sh

RECEIVED
COUNTY BOARD OF APPEALS
MAR 01 2 4 9 21

3-1-85 Phyllis Friedman, Esq.
Catherine Day

State of Maryland
OFFICE OF THE SECRETARY
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
250 WEST PRESTON STREET • BALTIMORE, MARYLAND 21201 • Area Code 301 • 383-2642
Harry Hughes, Governor

January 13, 1983

Charles R. Buck, Jr., Sc.D.
Secretary of Health and Mental Hygiene
20 West Preston Street
Baltimore, Maryland 21201

Re: Eastwood Day Nurseries
Hearing Office Docket No. 82-4-198

Dear Dr. Buck:

Enclosed you will find the Proposed Finding of Fact and Consent Order
that was agreed upon on the record on November 15, 1982 by the Attorney
General's Office, Baltimore County Solicitor's Office, and the attorney
representing Eastwood Day Nurseries.

The Eastwood Day Nurseries were represented at the hearing by counsel
and present was Gloria Dorsey, Director, Eastwood Day Nurseries. At
that time, a Consent Order was stipulated to by all the interested
parties and this office merely was waiting for the Consent Order to be
submitted for my signature. This Order was prepared by Donna P. Watts,
Esquire, Baltimore County Solicitor.

It was brought to my attention several weeks after the Consent Order was
entered on the record that the Eastwood Day Nurseries have hired another
attorney named Ann Adkins, Esquire to represent them concerning this
matter. It is clear that a Consent Order was agreed upon by all
interested parties and is accurately set forth in the Finding of Fact and
Consent Order, prepared by Donna P. Watts, Esquire, that I have signed.
This Order requires your signature for it to be implemented.

If you have any questions concerning this matter, please feel free to
contact me.

Very truly yours,

Steven M. Vogelhut, Esquire
Hearing Examiner
Office of Hearings

SMV/dig
Enclosure

cc: Donna P. Watts, Esquire
O. James Schuck, Esquire
Ann Adkins, Esquire
Daniel O'Brien, Esquire

IN THE MATTER OF
EASTWOOD DAY NURSERIES

BEFORE A HEARING EXAMINER
STEPHEN VOGELHUT, ESQUIRE
Designee of the Secretary
of Health and Mental
Hygiene

FINDINGS OF FACT AND CONSENT ORDER

Upon receipt of unfavorable comments concerning the
Eastwood Day Nurseries, licensed to Gloria Dorsey, (herein-
after referred to as the "Licensee"), to operate as a Group
Day Care Center, the Baltimore County Department of Health
(hereinafter referred to as the "Health Department") initiated
an investigation regarding this matter. Unannounced inspections
were conducted on April 2, 1982, by the Health Department's
licensing representatives and on July 22, 1982, by represen-
tatives of the Maryland State Department of Health and Mental
Hygiene -- Division of Child Day Care Center Licensing, and
consultation (hereinafter referred to as "DHNH"). After
reviewing the reports of these investigations, Donald J. Roop,
M.D., M.P.H., Baltimore County Health Officer, issued a letter
in which he informed the Licensee that he was revoking the
current day care license and suspending action on the application
for a new license for a period of six months. The Health
Officer concluded that the Licensee had violated COMAR 10.05.01.09
(Over enrollment of children) and COMAR 10.05.01.59 (Inadequate
staffing patterns). Notice of this licensing action was pro-
vided to the Licensee by letter dated August 24, 1982. This
letter also notified the Licensee of her appeal rights and by
letter dated August 26, 1982, the Licensee requested the Health
Officer to reconsider his decision and also requested a hearing
regarding this matter be conducted. The Licensee's request for

Fourth Avenue
Third Avenue
Second Avenue
First Avenue
Millbrook Road
Carney Rd
Woodland Road

Subject Property

Plat for Zoning Variance

OWNER: JAMES J. ROWE
FRANCES ANN ROWE

DISTRICT: 11 Zoned DR 5.5

SUBDIVISION: CARNEY HEIGHT
N.P.C. 6 Polio 158

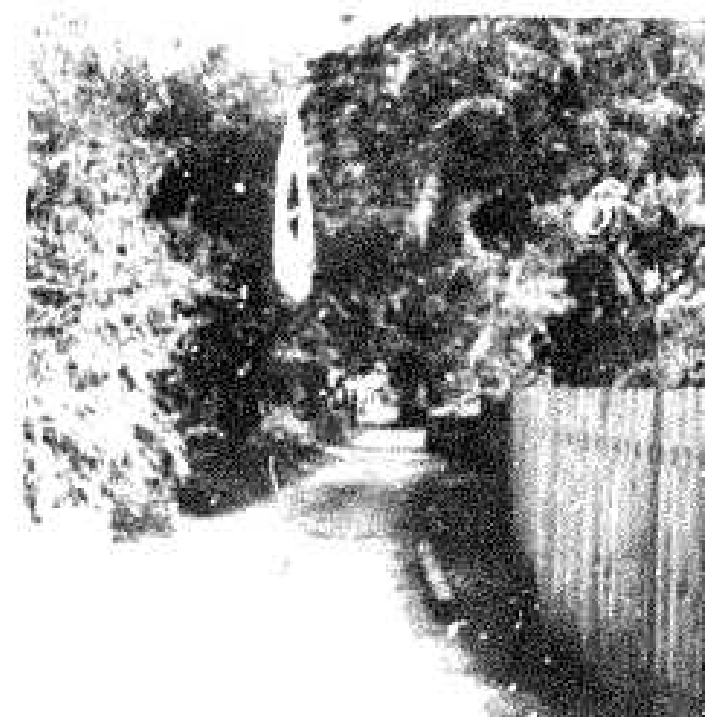
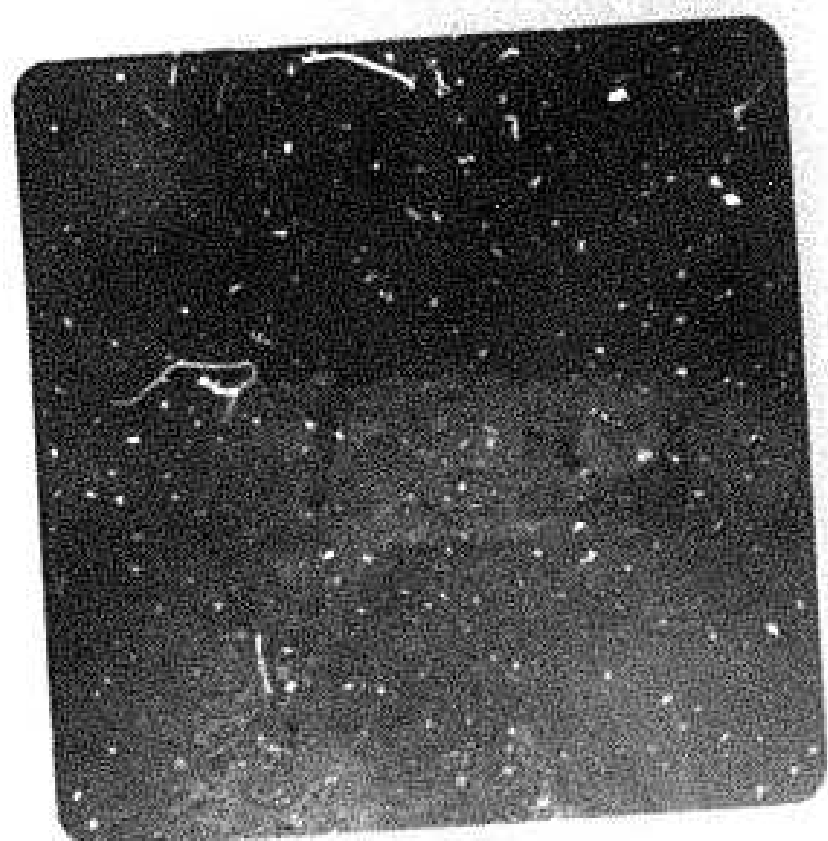
SCALE: 1" = 100'

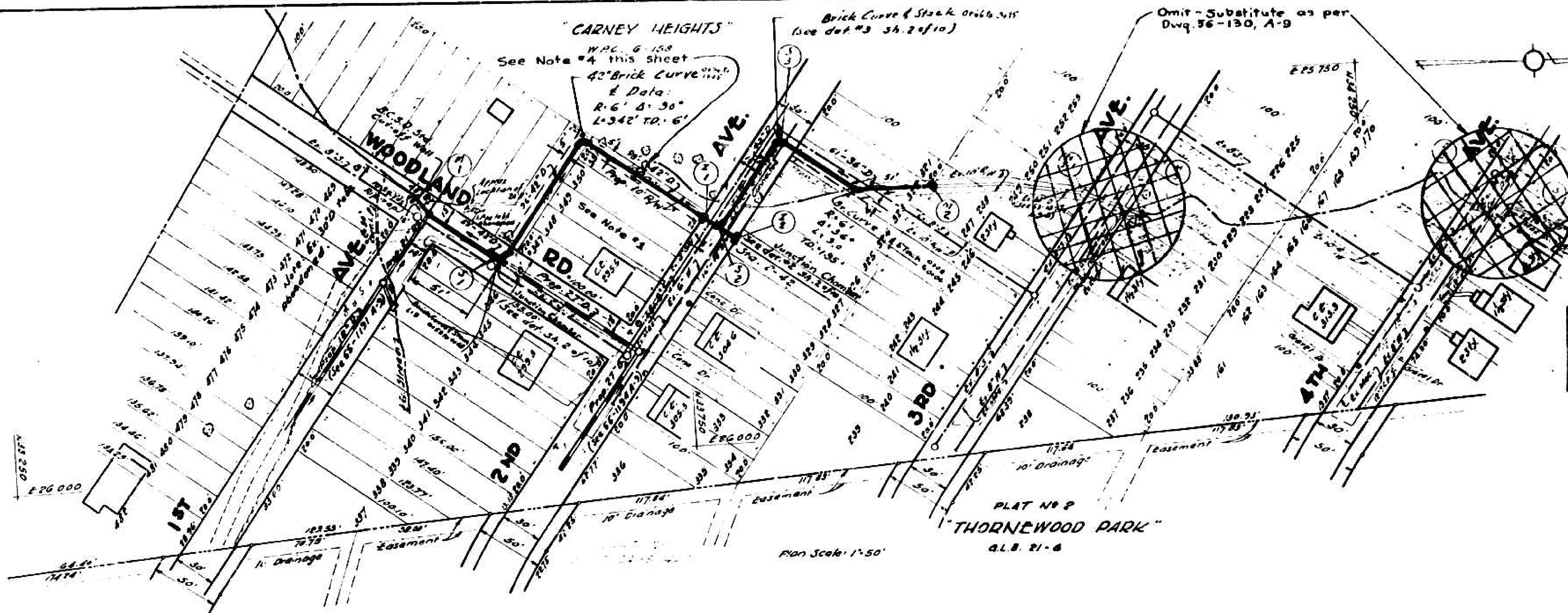
Petitioning Property

Petitioning Property

2/30/84



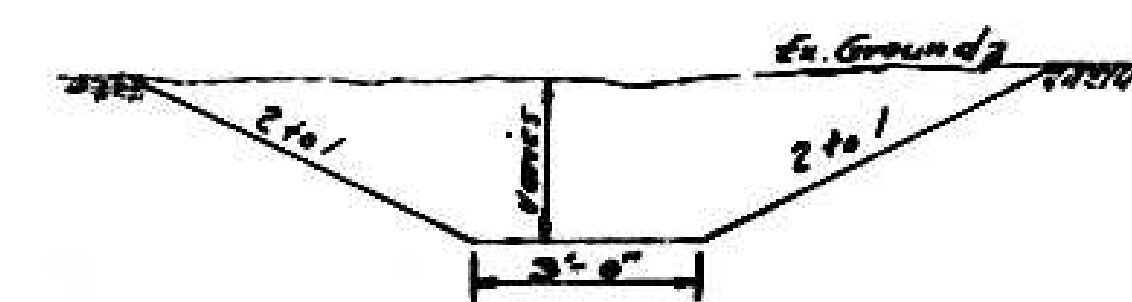
A grainy, black and white photograph showing a dark, textured surface, possibly a road or ground. A bright, curved light source or reflection is visible on the right side, creating a strong contrast with the dark area. The image has a high-contrast, almost abstract quality due to the grain and lighting.



MANHOLE SCHEDULE				
NO.	TYPE	SIZE	INV. OUT	REMARKS
M-1	B	60"	230.66	
M-2	B	48"	238.62	

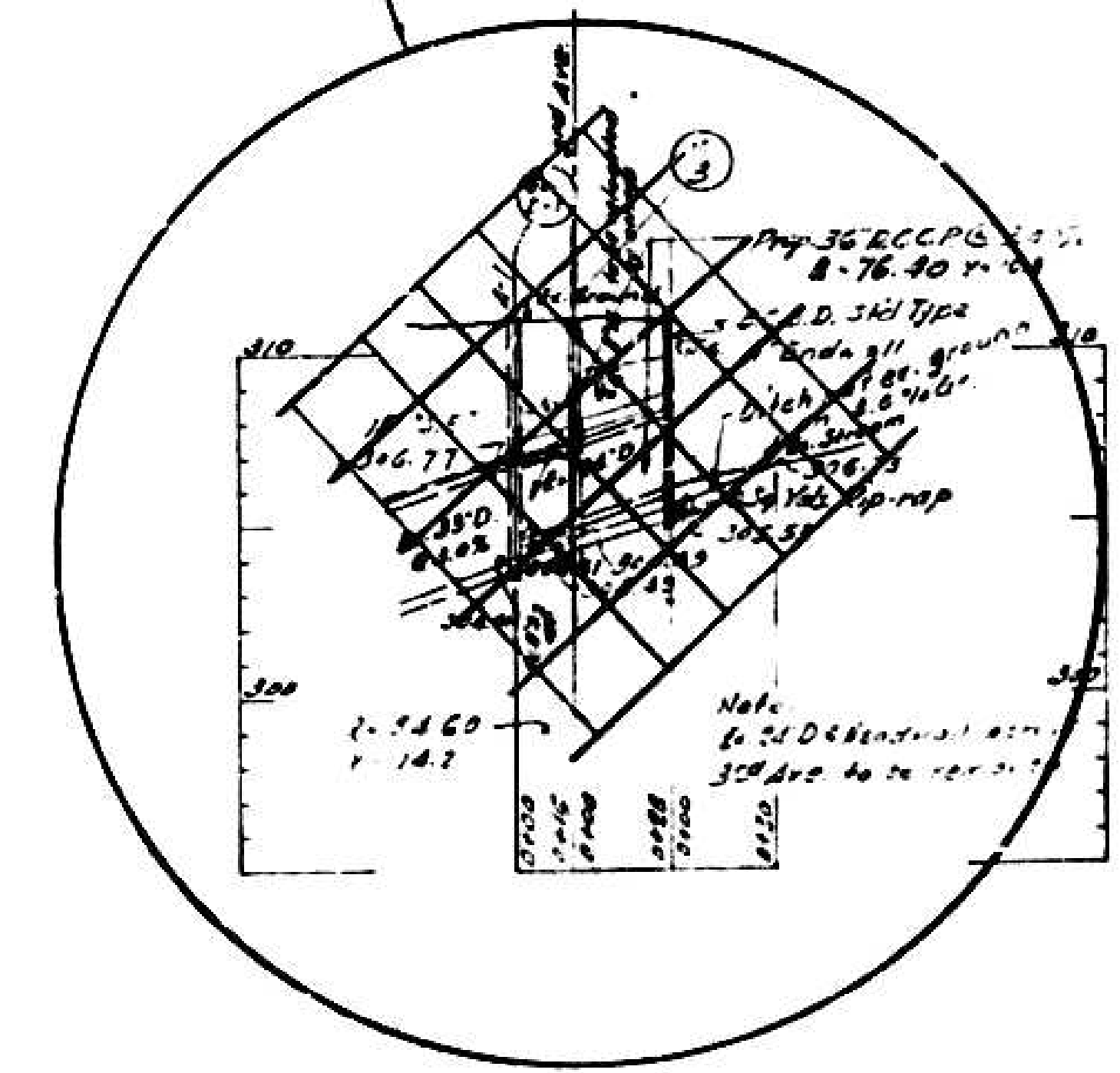
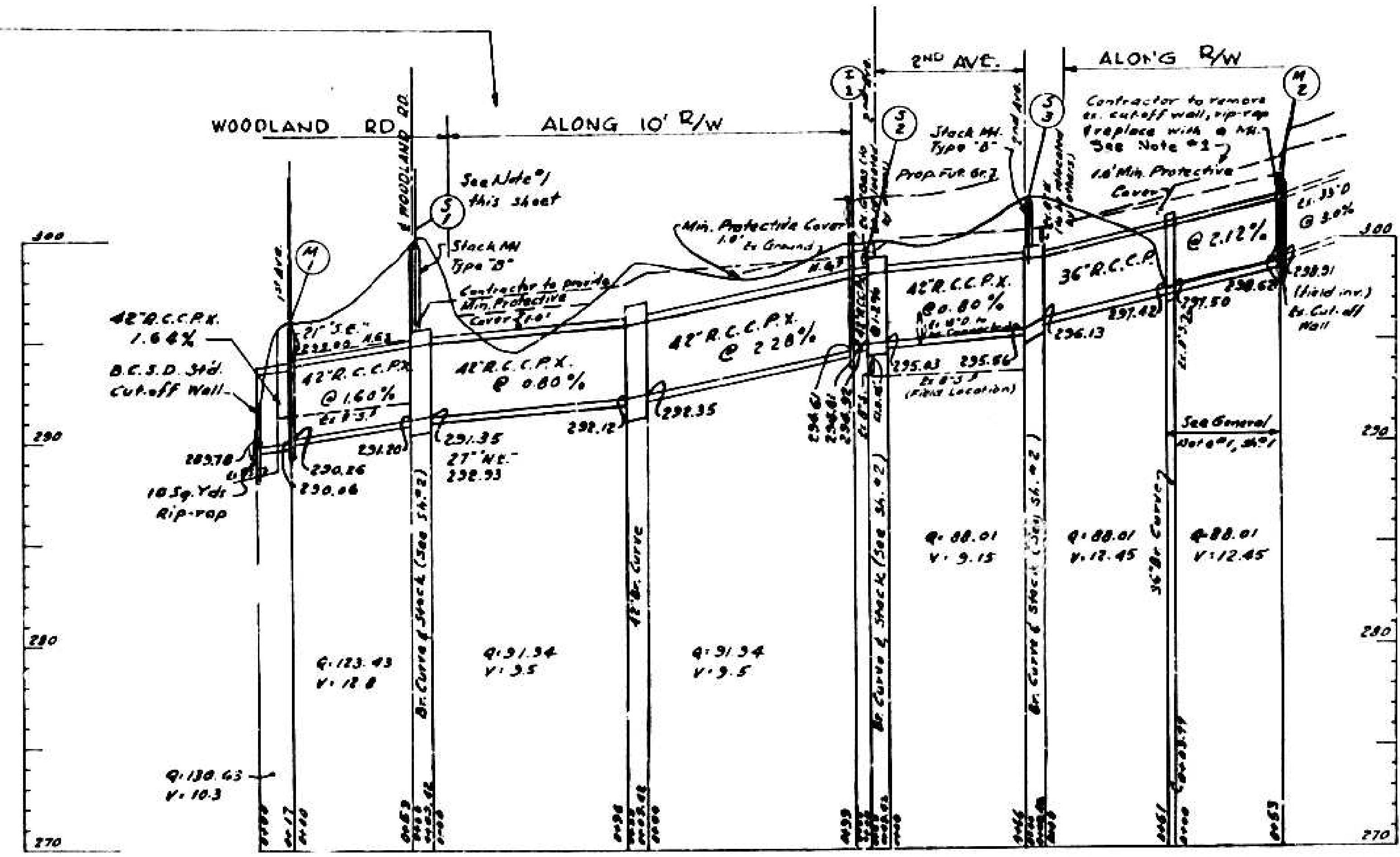
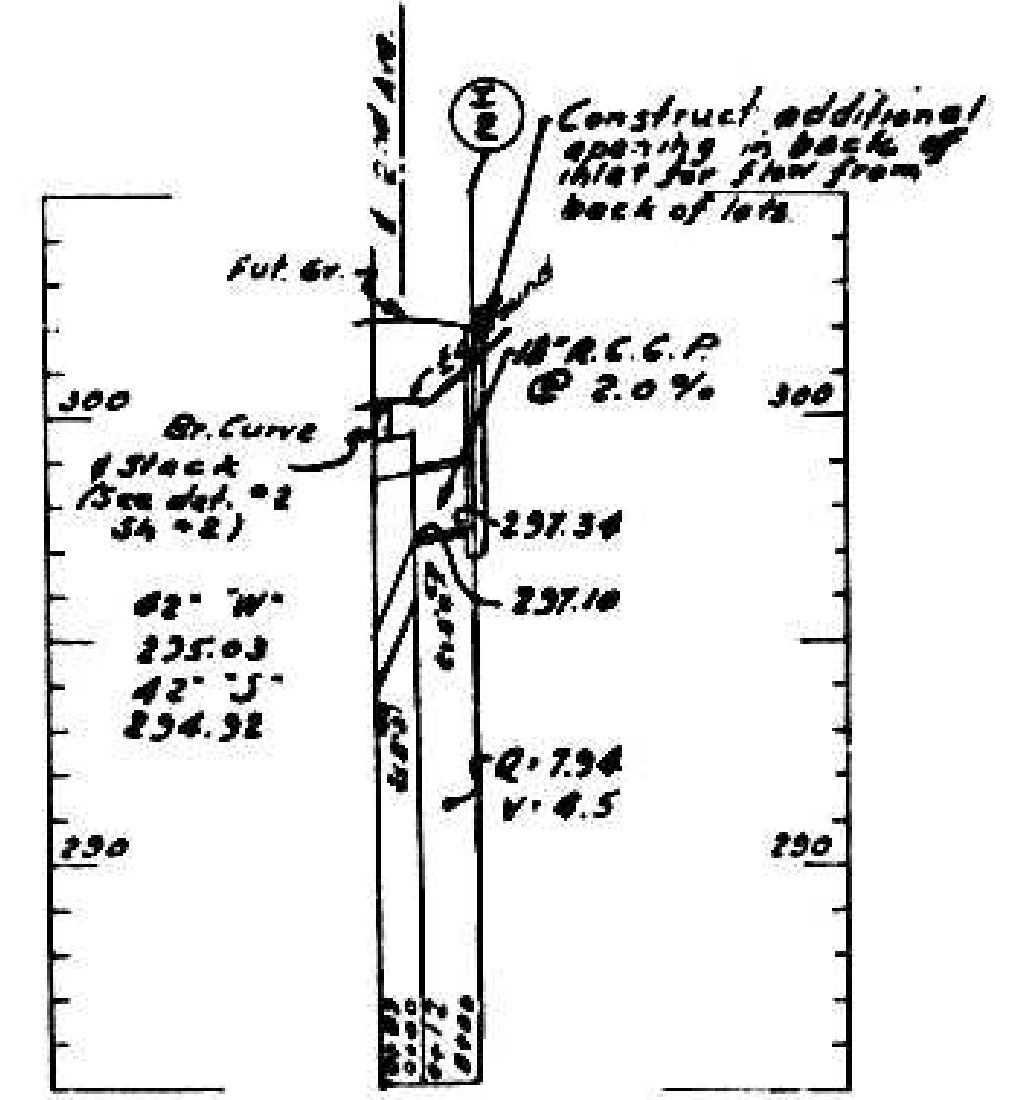
INLET SCHEDULE							REMARKS
NO.	TYPE	ACRES	CORR.	"C"	Q(CU)	INV. OUT	
I-1	E-Comb	0.37	0.55	7.05	1.43	297.51	Tops to be set in field.
I-2	W.E-Comb	2.52	0.50	6.30	7.94	297.33	

- Note:
- Contractor to fill rear of lots 347 to 351 & 17323 to prevent ponding. (See paragraphs 2-23 and 2-27 of Balto. County Specifications No. 1)
 - See General Notes 3, 4 & 5, Sheet #1
 - Proposed inlets shall be set for 30' curb & gutter.
 - Contractor shall be responsible for preserving holly tree, either by tunneling or hand excavation as directed by engineer.



CHANNEL SECTION
Scale 1" = 3'-0"

Omit - Substitute as per
Dwg. 86-130, A-9



Profiles:
Hor. 1" = 50'
Vert. 1" = 5'



P.M.A. # 115417 ROAD PERMIT AND GRADES PERMIT REQUESTED PERMIT NUMBER GRADE ESTABLISHED PROFILE NUMBER		BALTIMORE COUNTY METROPOLITAN DISTRICT APPROVED DATE		DIVISION OF ENGINEERING APPROVED DATE		BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS DIVISION OF ENGINEERING APPROVED DATE		SCALE KEY SHEET POSITION SHEET NO. 3 OF 9		J.O. 1848-D 55-1193 FILE: A-9	
DATE RIGHT OF WAY REF		ENGINEER ALBERT E. FOMMER		DEPARTMENT OF PUBLIC WORKS		DIVISION OF ENGINEERING		SCALE As Shown		J.O. 1848-D 55-1193 FILE: A-9	
REG. NO. 172 DESIGNED DATE		CHECKED DATE		APPROVED DATE		DIVISION OF ENGINEERING		SCALE As Shown		J.O. 1848-D 55-1193 FILE: A-9	

Plat #3

MICROFILMED



19-20 SW