

84-288-A PETITION FOR ZONING VARIANCE 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 409.2.b.(6) to permit 17 in lieu of 21 parking spaces.

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

In order to be competitive outside display is necessary, the existing parking does not allow any expansion of retail sales area, therefore a parking variance is needed.

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:
(Type or Print Name)
Signature
Address
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
City and State
Name
Address
Phone No.

Legal Owner(s):
(Type or Print Name)
Signature
Address
City and State
Attorney for Petitioner:
(Type or Print Name)
Signature
Address
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
City and State
Name
Address
Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 14th day of February, 1984, 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 30th day of April, 1984, at 11:15 o'clock A.M.

Carl J. Jahn
Zoning Commissioner of Baltimore County

MICROFILMED

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Phone No.

Legal Owner(s):
(Type or Print Name)
Signature
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Carl J. Jahn
Zoning Commissioner of Baltimore County

MICROFILMED

BALTIMORE COUNTY
ZONING PLANS
ADVISORY COMMITTEE
PETITION AND SITE PLAN
EVALUATION COMMENTS
MICROFILMED

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon
TO: Zoning Commissioner
FROM: Norman E. Gerber, Director
SUBJECT: Charles Walters
84-288-A

Date: April 11, 1984

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

NEG/JGH/sf

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

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

April 17, 1984

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

cc
Nicholas B. Commodari
Chairman

Bureau of Engineering
Department of Traffic Engineering
State Parks Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Transportation
Zoning Administration
Industrial Development

Mr. Charles Walters
211 Wise Avenue
Baltimore, Maryland 21222

RE: Case No. 84-288-A (Item No. 213)
Petitioner - Charles Walters
Variance Petition

Dear Mr. Walters:

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 B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC/bsc
Enclosures

MICROFILMED

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

MAIL ROOM
JGH:TOR

March 28, 1984

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

Re: Item #213 (1983-1984)
Property Owner: Charles Walters
S/S New Deal Place 90' N/W from centerline
Midway
Acre: 1.00 X 100 E. 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 exist and are not directly involved.

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. 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 in connection with this Item 213 (1983-1984).

Very truly yours,

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

RAM:EAM:FWR:sp

E-SW Key Sheet
15 SE 26 P.O. Sheet
SE 4 C Topo
104 Tax Map

MICROFILMED

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

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

Your petition has been received and accepted for filing this 30th day of January, 1984.

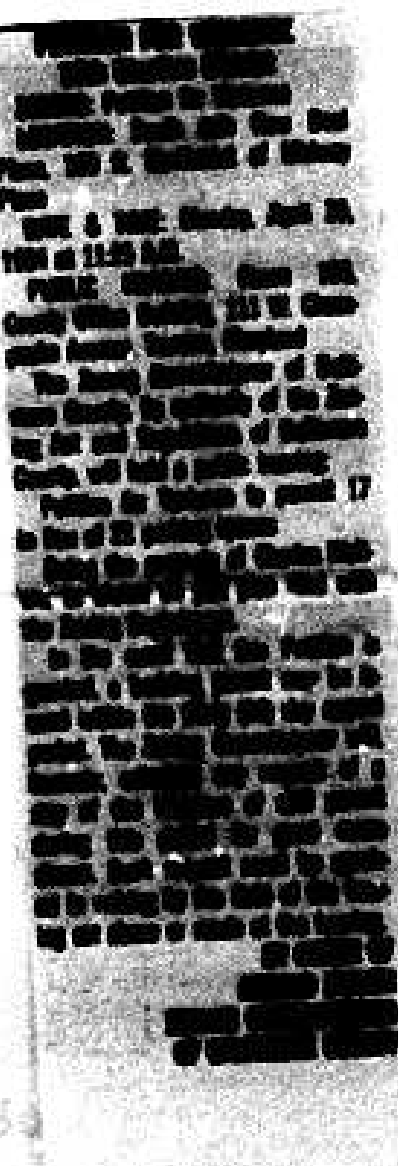
ARNOLD JABLON
Zoning Commissioner

Petitioner: Charles Walters
Petitioner's Attorney

Received by: Nicholas B. Commodari
Chairman, Zoning Plans Advisory Committee

MICROFILMED

MICROFILMED



6-4-84

IN RE: PETITION ZONING VARIANCE
S/S of New Deal Place, 100'
NW of Midway Place - 12th
Election District
Charles Walters,
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 84-288-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance to permit 17 parking spaces instead of the required 21 spaces, as more fully described on Petitioner's Exhibit 1.

The Petitioner appeared and testified and was represented by Counsel. Bruno Perseghin, Sr. and Bruno Perseghin, Jr. appeared and testified

The subject property, zoned B.L.-C.N.S. was purchased by the Petitioner in December, 1983 for the purpose of operating a produce and seafood market. After purchasing, the Petitioner recognized the need to have display stands in the front of the property to attract customers traveling on Wise Avenue, a major thoroughfare. He also proposes to construct a shed around a cool box needed for refrigeration. The potential additional retail uses would expand the total area of his business to 4,143 square feet, which requires 21 parking spaces. Inasmuch as the display stands and shed would take up 3 1/2 of the available parking spaces and there is no other area to expand or relocate the proposed uses, a variance is required.

The Petitioner has been in the produce business for many years. It has been his experience that, even during the busiest season, never more than seven spaces were needed. In fact, he testified that, at most, only three or four spaces would be utilized at any one time. Customers come and go quickly in this type of business because turnaround is important to both the customer and the

business. Testimony was clear that the loss of the four spaces would in no way adversely impact traffic or cause traffic congestion. Mr. Walters testified that without the display stands, he would be at a distinct disadvantage to his competition, which includes the Protestants herein who operate a similar business directly across the street. Other competition in the area has display stands which showcase available seasonal fruit and vegetables to passing motorists. Since this type of business is obviously seasonal, the Petitioner believes that he would not be able to operate without the displays, especially during Spring and Summer.

The property at issue here does not front on Wise Avenue but on New Deal Place, a service road running parallel to Wise Avenue which is one-way west. Traffic must cross from Wise Avenue via New Deal Place to enter the Petitioner's business.

The Protestants allege that the Petitioner has continually violated the zoning laws, but this argument has no bearing on this hearing. The process for a variance will not be turned into a violation hearing. Klein v. Colonial Pipeline Co., 462 A.2d 546 (1983). Additionally, they allege that the Petitioner is also running a flea market on the property. However, this property is zoned appropriately for such a business enterprise. Their argument reflects the essential underlying feelings of disenchantment between the Protestants and the Petitioner, the cause of which is of no concern here. This is unfortunate, however, since it clouds the issue raised for relief.

The Protestants testified that they have seen the Petitioner's parking lot full, which is in contradiction to the Petitioner's testimony. They are also concerned that the Petitioner will take advantage of any relief granted. They are competitors and admit that their parking lot, which has only ten spaces, is seldom, if ever, filled to capacity. They presented no evidence to contradict

- 2 -

the testimony of the Petitioner that the requested variance satisfy the strict burden of proof required by Section 307 of the Baltimore County Zoning Regulations (BCZR). The Petitioner has successfully met that burden, and the Protestants were unable to provide any evidence to the contrary.

The Petitioner seeks relief from Section 409.2.b.(6), pursuant to Section 307, BCZR.

An area variance may be granted where strict application of the zoning regulation would cause practical difficulty to the petitioner and his property. 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 variance were granted, such use as proposed would not be contrary to the spirit of the BCZR 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 variance were not granted. It has been established that the requirement the Petitioner seeks relief from here would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not be detrimental to the public health, safety, and general welfare.

- 3 -

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 be granted.

Therefore, IT IS ORDERED by the Zoning Board of Baltimore County, this 4th day of May, 1984, that the Petition for variance to permit 17 parking spaces instead of the required 21 spaces be and is hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. If the Petitioner continues to operate the flea market on the premises, whether inside or out of the building on site, he must provide those spaces determined by the BCZR to be required, compliance with which may be satisfied by loading appropriate spaces off site on property adjacent to the subject property.
3. A sign, indicating "No Left Turn" onto New Deal Place shall be provided at the exit from the parking lot.

[Signature]
Zoning Commissioner of
Baltimore County

PETITION FOR VARIANCE

12th Election District

ZONING: Petition for Variance
LOCATION: South side New Deal Place, 100 ft. Northwest of Midway Place
DATE & TIME: Monday, April 30, 1984 at 11:15 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 17 in lieu of 21 parking spaces

Being the property of Charles Walters, 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

TO WHOM IT MAY CONCERN:

I, Alvin D. Lloyd, Sr., hereby give permission for Mr. Charles Walters to use the vacant lot in the 200 block of Wise Avenue at New Deal Place in front of three (3) brick garages and across from Wise Avenue Volunteer Fire Department. Mr. Walters must obtain any and all necessary permits and/or licenses to operate a produce stand there.

[Signature]
Alvin D. Lloyd, Sr.

This agreement can be cancelled by either party on seven (7) days' notice.

Agreed By:

[Signature]
Charles Walters

PETITIONER'S
EXHIBIT 2

DESCRIPTION

Beginning for the same at a point 100 feet Northwest of the intersection of Midway and New Deal Place. Consisting of lots 7 thru 10 of Block I as shown on plat of Inverness recorded in the land records of Baltimore County in Plat Book 10 Folio 128.

IN RE: PETITION ZONING VARIANCE
S/S of New Deal Place, 100'
NW of Midway Place - 12th
Election District
Charles Walters,
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 84-288-A

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ORDER RECEIVED FOR FILING

DATE May 4, 1984

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.

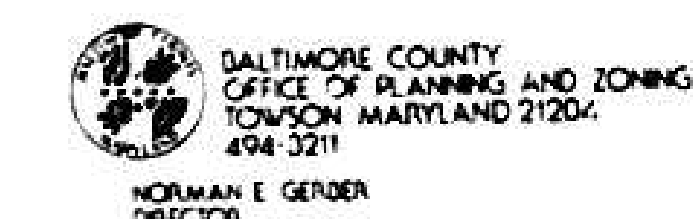
Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the herein Petition for Variance(s) to permit

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.

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



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

Re: Zoning Advisory Meeting of
Item # _____
Property Owner: _____
Location: _____

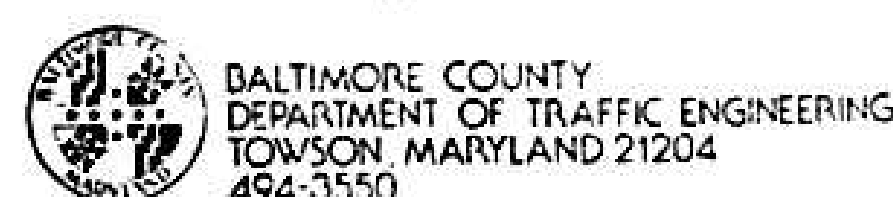
Dear Mr. Jablon:

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 22-98 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 _____.
- ☐ 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 _____.
- ☐ 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: _____

Ernest A. Boer
Chief, Current Planning and Development

cc: James Howell



STEPHEN E. COLLINS
DIRECTOR

March 9, 1984

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

ZAC Meeting of February 14, 1984

Item No. 203, 204, 205, 206, 207, 209, 210, 211, 212, 213, and 214.
Property Owner:
Location:
Existing Zoning:
Proposed Zoning:

Across:
Districts:

Dear Mr. Jablon:

The Department of Traffic Engineering has no comments for item numbers 203, 204, 205, 206, 207, 209, 210, 211, 212, 213, and 214.

Michael S. Flanigan
Traffic Engineering Assoc. II

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Zoning Commissioner
TO: Office of Planning and Zoning

Date: March 26, 1984

FROM: Jan J. Forrest

SUBJECT: Zoning Variance Items

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.

Meeting - February 14, 1984

- Item #203 - Leroy Y. Baile, Jr., et al
- Item #205 - Margaret R. Budak
- Item #206 - Edward Woe, et ux
- Item #207 - Anne Mysola
- Item #208 - Joseph P. Ambrose, Sr.
- Item #209 - Abell Communications
- Item #210 - Security Mini Storage
- Item #211 - Charles E. Gebhard, et ux
- Item #213 - Charles Walters

Meeting - February 21, 1984

- Item #215 - Anthony J. Maken, et ux
- Item #219 - Dale P. Vois
- Item #220 - Estate of Helen A. Singer

Meeting - March 6, 1984

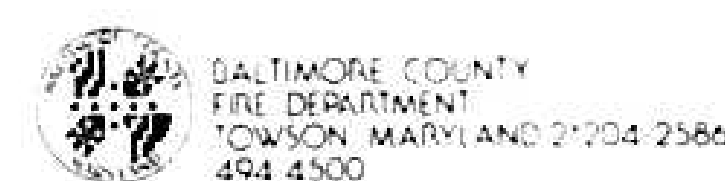
- Item #227 - James J. Ward, III

Meeting - March 20, 1984

- Item #230 - James Forbes, et ux
- Item #232 - David J. Klevins, et ux

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

LJF/tth



PAUL H. RICHKIE
CHIEF

March 2, 1984

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: Charles Walters

Location: S/S New Deal Place 90' N/W from c/l Midway

Item No.: 213 Zoning Agenda: Meeting of 2/14/84

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 BY: *George M. Hegmann*
Noted and
Approved: _____
Planning Group
Special Inspection Division

/mb

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Nicholas Commodari, Zoning Department Date: March 1, 1984

FROM: G. E. Rumbach, Chief, Plans Review C S B

SUBJECT: Zoning Advisory Committee Meeting
February 11, 1984

- | | |
|-----------|-------------------|
| Item #203 | See Comments |
| Item #204 | Standard Comment |
| Item #205 | No Comment |
| Item #206 | See Comment |
| Item #207 | See Comments |
| Item #208 | See Comments |
| Item #209 | Standard Comments |
| Item #210 | See Comments |
| Item #211 | See Comments |
| Item #212 | See Comment |
| Item #213 | No Comment |
| Item #214 | See Comments |

GES/vv



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

ARNOLD JADON
ZONING COMMISSIONER

September 6, 1984

The Honorable John W. O'Rourke
10 Dummerway
P.O. Box 9086
Baltimore, Maryland 21222

RE: Building Setback
211 Wise Avenue (Cheap Charlie's)

Dear Councilman O'Rourke:

Per your letters of August 31, 1984, a review of our records indicates that two site plans currently are on file. The first plan initially was approved in August, 1976. This was submitted in conjunction with the construction of a proposed ceramic store. The second plan was submitted in accordance with one of our requirements for the filing of a variance petition. At present, the building in question is outlined on the plat. It is depicted as being 11 feet, 6 inches by 17 feet. This structure is attached to the existing retail produce store and subsequently is in line with that building. A further review of the plan indicates that both the existing retail store, shed and four foot screening are all 5.33 feet off of the property line. An on-site inspection of the property by James Thompson on September 6, 1984, does support that fact. As a result, this occurrence does not constitute a violation of the setback requirements.

Enclosed you will find a copy of both the original site plan and the most recent plat of the property filed in Case No. 84-000-A. In addition, I also have included the decision rendered in that matter, wherein, the Petitioner, Charles Walters, represented by Norman R. Stone, Jr., Esquire, was granted a variance of 17 parking spaces in lieu of the required 21.

If I can be of any further assistance, please call.

Sincerely,

JAMES E. DYER
Zoning Supervisor

JED:JHT:ech

cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Jim Dyer, Zoning Supervisor Date August 31, 1984

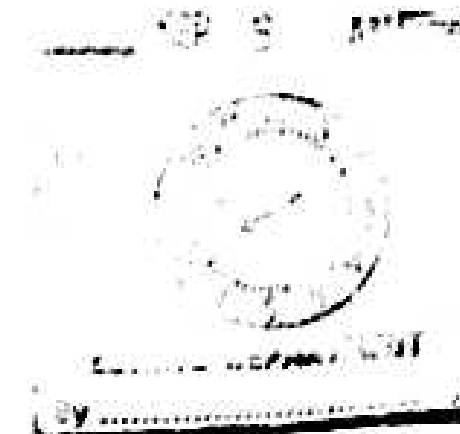
FROM: Councilman John W. O'Rourke, 7th Dist.

SUBJECT: Memo enclosed re: Building on property line
Wise Avenue and New Deal Place (Cheap Charlie's)

I would be interested in knowing if you have a site plan for the above location

Thank you.

JWO/me



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Zoning Enforcement Date August 31, 1984

FROM: Councilman John W. O'Rourke, 7th Dist.

SUBJECT: Building on property line
Wise Avenue and New Deal Place

It has been brought to my attention that a building has been constructed at the above location-on the property line.

I would appreciate it if you would investigate this matter and let me know the result.

cc: Jim Dyer
Zoning Supervisor

