

PETITION FOR ZONING VARIANCE + Special Hearing
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 1A04.3(B)(3) to permit side yard setbacks of 34' instead of the required 50' and to determine if an existing undersized lot can be relocated approximately 50 ft. South.

Legal owner seeks to improve the existing lot with a residential dwelling and would be unable to do so if compelled to comply with the above-referenced sections applicable to RC-5 zones.

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: Leg- Owner(s):
Dorothy I. Raiford
(Type or Print Name)
Signature: *Dorothy I. Raiford*
Address: 10727 Davis Avenue
(Type or Print Name)
City and State: Baltimore, Md. 21163
Atorney for Petitioner: Jerome Blum & Associates
11 East Lexington St. Baltimore, MD 21202
Phone No. 837-4010
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Raymond B. Via, Jr.
(See Above)
City and State: Baltimore, Md.
Address: 11 East Lexington St.
Phone No. 837-4010
Attorney's Telephone No.: 837-4010

ORDERED By The Zoning Commission of Baltimore County, this 14th day of May, 1986, 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 Commission of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 14th day of May, 1986, at 11:00 o'clock.

(over)

RE: PETITION FOR VARIANCE
PETITION FOR SPECIAL HEARING
SW/S of Davis Ave., 370' SE of
the C/L of Acme Ave.
2nd District
DOROTHY I. RAIFORD,
Petitioner
BEFORE THE ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 86-463-ASPH

MEMORANDUM OF LAW
INTRODUCTION

In the instant matter, the Petitioner, Ms. Dorothy Raiford, is the record owner of a parcel of unimproved real property known as 10724 Davis Avenue, Woodstock, Maryland ("Subject Property"). The Subject Property is located in an RC-5 zone. The pertinent area regulation for RC-5 zones are set forth in Section 1A04.3(B)(1) of the Zoning Regulations of Baltimore County which provides that a lot having an area of less than one acre may not be created in an RC-5 zone.

On or about November 1, 1985, the Petitioner acquired the Subject Property from Russell B. Frizzell and Anna B. Frizzell, her foster parents and the previous record owners. The Subject Property is outlined in red on the Plat to Accompany Legal Description of Russell B. Frizzell and Wife, attached hereto as Exhibit A and incorporated by reference herein. One half of the property comprising the Subject Property was conveyed from the large parcel consisting of 9.5 +/- acres owned by the Frizzells indicated on Schedule A with the other half coming from the smaller parcel consisting of .45 +/- acres also indicated on Schedule A. The total area of the combination of the two pre-existing lots conveyed to Raiford is .45 +/- acres. The desired

IN RE: PETITION FOR ZONING VARIANCE
AND SPECIAL HEARING, SW/S of
Davis Avenue, 370' SE of the
C/L of Acme Avenue
2nd Election District
Dorothy I. Raiford,
Petitioner
BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 86-463-ASPH

The Petitioner herein requests a zoning variance to permit side yard setbacks of 34 feet in lieu of the required 50 feet to construct a new dwelling, and additionally, a special hearing to determine if an existing undersized lot can be relocated approximately 50 feet south.

At the onset of the hearing, Counsel for the Petitioner moved to amend the Petition to request a side yard variance of 27.37 feet in lieu of the required 50 feet, although both advertisements and posting listed the request for a 34-foot setback. The same house design is proposed, however, the engineer, without the Petitioner's full knowledge and understanding, originally placed the house to face the driveway, not Davis Avenue. The Motion was granted.

Testimony by and on behalf of the Petitioner indicated that she was deeded the legally described site, a lot 100 feet wide by 200 feet deep from Davis Avenue, by the Frizzells, step-parents and owners of adjacent property. The Frizzells acquired two parcels of land in the 1950's: the first one being 9 acres +/- with 50 feet of frontage on Davis Avenue, and the second, a lot 100 feet of frontage on Davis Avenue and 200 feet of depth. The Frizzells and their driveway on the northernmost 50-foot strip, inside the original lot x 200-foot lot. When they conveyed a 100-foot x 200-foot lot to the Petitioner, as indicated on the plan submitted herein, prepared by Silbermann & Associates, revised April 8, 1986 and identified as Petitioner's Exhibit 2, the Frizzells drew the property lines so that the long existing driveway would

not be disturbed. The new lot created is the same size as the second parcel of land originally purchased in the 1950's. The relocation of the pre-existing, sub-standard lot would permit the access road to the existing dwelling to remain and would allow the construction of one dwelling, as would have been permitted on the lot as drawn in the 1950's. The creation of a parcel identical in size to the original undersized lot would in no way adversely affect public health, safety or general welfare.

There were no Protestants.

After due consideration of the testimony and evidence presented, it appearing that the spirit and intent of Section 1A04.3B5 of the Baltimore County Zoning Regulations (BCZR) have been met, it appearing that strict compliance with the (BCZR) would result in practical difficulty and unreasonable hardship upon the Petitioners, and the granting of the variance requested would not adversely affect the health, safety, and general welfare of the community, in the opinion of the Deputy Zoning Commissioner the variance and the special hearing should therefore be granted.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 25th day of July 1986, that the herein request for a variance to permit side yard setbacks of 27.37 feet to construct a new dwelling, and additionally, a special hearing to determine if an existing undersized lot can be relocated approximately 50 feet south, in accordance with Petitioner's Exhibit 2, are hereby GRANTED in the instant case, from and after the date of order.

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

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

ARNOLD JABLON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

July 25, 1986

Raymond B. Via, Jr., Esquire
Jerome Blum & Associates
11 East Lexington Street
Baltimore, Maryland 21202

RE: Petition for Zoning Variance
and Special Hearing, SW/S of
Davis Avenue, 370' SE of the
C/L of Acme Avenue
2nd Election District
Case No. 86-463-ASPH

Dear Mr. Via:

I have this date passed my Order in the above referenced Petition for Zoning Variance and Special Hearing in accordance with the attached.

If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

Jean M. H. Jung
Deputy Zoning Commissioner

JMB:bjb

Attachments

cc: Ms. Dorothy I. Raiford
10727 Davis Avenue
Woodstock, Maryland 21163

People's Counsel

Purpose of the Petition is to allow the Petitioner to build a residential dwelling on the undersized lot.

QUESTIONS PRESENTED

a. Whether the zoning commissioner should permit the Petitioner to construct a residential dwelling on an undersized lot in an RC-5 zone where that undersized lot was created from the "relocation" of a pre-existing sub-standard lot identical in size, shape and character to the parcel in question and on which a residence could have been constructed as an explicit exception to the RC-5 zoning regulations.

b. Assuming, arguendo, that the "relocation" of the subject property does not fall within the pre-existing lot exception to the RC-5 zoning regulations whether an area variance should be granted to the Petitioner to allow the construction of a residential dwelling on a undersized lot.

DISCUSSION

a) On May 14, 1986, a hearing was held before the Deputy Zoning Commissioner of Baltimore County to determine if the "relocation" of a legal undersized lot for the purpose of building a residential dwelling in an RC-5 zone would be permitted.

At that hearing the Commissioner heard testimony from the Petitioner that originally Russell B. Frizzell and Wife owned two parcels of land accessible to Davis Avenue, a large parcel of 9.5 +/- acres and a small parcel of .45 +/- acres. The Petitioner testified that by Deed dated November 1, 1985, the Frizzells granted to the Petitioner a parcel identical in size, shape and character to the original smaller parcel for the purpose of construction of a residential dwelling thereon. The

"relocation" of the smaller parcel into the Subject Property was made necessary by the fact that a substantial portion of the smaller parcel was taken up by a drive-way allowing ingress and egress to the larger property and the residential dwelling thereon.

The Petitioner testified that although the provisions of Section 1A04.3(5) regarding pre-existing sub-standard lots would permit the record owner of the previously existing smaller parcel to build a residence thereon, by so doing the road providing access to the larger parcel would necessarily be eliminated.

Therefore, the Petitioner and the Professional Engineer employed by the Petitioner to assist in this project, Harvey Silverman, both testified that the parcel in question was created as a "mirror image" to the previously existing smaller parcel by merely shifting the smaller parcel's boundary's to create a lot of identical size and shape adjacent to the driveway upon which the desired residence could be located and could be served by the aforesaid driveway.

The Petitioner testified that the "relocation" of the undersized lot would in no way adversely affect public health, safety or general welfare of the neighborhood. Indeed, Petitioner testified that the proposed dwelling was architecturally and structurally compatible with the existing homes in the neighborhood and was not in unreasonably close proximity to neighboring home, wells or septic systems. Further, despite the required notice of hearing to be held in the above referenced

matter by posting of the property, no individual neighbor or representative of any community association appeared as a protestant at the hearing of May 14, 1986.

It is the Petitioner's feeling that the facts presented in the instant case are in complete harmony with the facts contemplated by the County Council when Section 1A04.3(5) of the Zoning Regulations of Baltimore County was enacted. That section, which was enacted to provide relief for property owners of previously recorded undersized lots which would be unable to be used for any reasonable purpose if the strict area requirements provided by the Zoning Regulation were retroactively applied provides as follows:

1A04.3(5). Exceptions for certain record lots. Any existing lot or parcel of land with boundaries duly recorded among the Land Records of Baltimore County with the approval of the Baltimore County Office of Planning and zoning on or before the effective date of these zoning regulations and not part of an approved sub-division that cannot meet the minimum standards as provided within the zone may be approved for residential development in accordance with the standards prescribed in force at the time of the lot recordation.

It is clear that the previously existing smaller lot would fall directly within the exception provided in the paragraph above and would be exempt from the area regulations of the zoning regulations applicable to RC-5 zones. In the instant case, by "shifting" the boundaries of the existing lot to create an identical parcel to the original, the Petitioner is merely preserving the ingress and egress to the existing properties while retaining an identical undersized lot which can be improved by a residential dwelling without adversely affecting the welfare of the neighborhood or impairing the RC-5 zone plan.

The passage of Section 104(3)(B)(5) by the County Council

indicates the Council's recognition of the doubtful validity of area restrictions as applied to pre-existing sub-standard lots. Although the lot in question is not itself pre-existing, having been created from two pre-existing lots, the same standards should apply to the aforesaid lot when its character, size and shape are identical to the pre-existing lot from which it was formed and the "shifting" of the boundaries from the pre-existing lot to the Raiford parcel was compelled to preserve ingress and egress to the pre-existing larger parcel.

b) Although the Petitioner feels that the Raiford parcel is for the reasons stated supra, in essence and spirit a pre-existing lot subject to the area exception contained in Section 1A04.3(B)(5) of the Zoning Regulations of Baltimore County, even if the property would be considered a new lot subject to the RC-5 regulations what is requested in this case by the Petitioner is an area variance; a request which should be considered by the Commissioner based on the standards set forth for such variances in Section 307 of the Zoning Regulations for Baltimore County.

Section 307 provides in its entirety:

The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from offstreet parking regulations and from sign regulations, only in cases where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, offstreet parking, or sign regulations, and only in such manner as to grant relief without substantial injury to public health, safety, and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner

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shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.

In applying the practical difficulty or unreasonable hardship standard the Court of Appeals of Maryland has held that to justify the granting of an area variance the Petitioner need only show that:

1. Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

2. A grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relations than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

3. Relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured. McLean v. Soley 270 Md. 208, 310, A2nd 783, (1973).

Applying this standard to the facts in the instant case, the prohibition of a residential use of the Raiford property in strict accordance with the RC-5 zoning regulations would create substantial practical difficulties and unreasonable hardship for the Petitioner.

Quite simply, strict compliance would be virtually confisca-

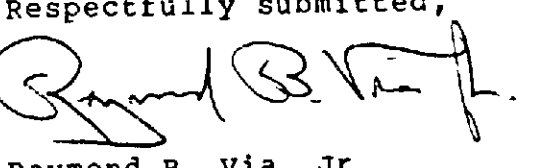
tory in its impact on the Petitioner in that no practical use other than a residential use could be made of the Subject Property.

With regard to any effect on neighboring properties the Petitioner testified that all of her neighbors had been made aware of the petition and its proposed purpose and none of those neighbors with whom she had been in contact were opposed to the relief requested. Indeed, no protestants appeared at the hearing. The Petitioner further testified the proposed residence was structurally and architecturally in conformity with other residences in the area, was of similar size and value and would not create any detrimental effect to the welfare of the community.

Finally, with respect to the proposed residential construction being within the spirit of the zoning regulations and the public safety and welfare it is the Petitioner's feeling that the "relocation" she seeks is directly within the spirit of Section 1A04.3(B)(5), which would make it an exception to the RC-5 zoning regulations. However, assuming otherwise, the proposed construction of a dwelling on the undersized lot does nothing to jeopardize the public welfare and safety of the neighborhood.

In conclusion, the Petitioner feels that the "relocation" of the pre-existing lot to allow continuing use of the driveway as ingress and egress to both the Raiford parcel and the existing larger parcel does not create a lot that is in any way different in size, shape or area of the pre-existing lot and therefore the rights to its use are similarly controlled by the language of

Section 1A04.3(B)(5). Even assuming the parcel to have been created anew and thus being subject to the RC5 regulations, strict application of the area requirements of RC5 zones would result in practical difficulty and unreasonable hardship to the Petitioner in depriving her of the reasonable use of her property and such practical difficulty and unreasonable hardship provides the basis for approval by the Commissioner of an area variance.

Respectfully submitted,

Raymond B. Via, Jr.
Attorney for the Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, That on this 10th day of June, 1986, a copy of the foregoing Memorandum of Law was mailed, postage prepaid, to Phyllis Cole Friedman and Peter Max Zimmerman, Deputy People's Counsel, Room 223, Court House, Towson, Maryland, 21204


Raymond B. Via, Jr.

nm l/raiford.law
6/6/86
sa-6/10/86

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Zoning Description

BEGINNING FOR THE SAME ON THE SOUTHWEST SIDE OF DAVIS AVENUE, AT A POINT 370 FEET SOUTHEASTERLY FROM THE INTERSECTION OF THE SAID SOUTHWESTERN SIDE OF DAVIS AVENUE WITH THE CENTERLINE OF ACME AVENUE;

THENCE, LEAVING THE SOUTHWEST SIDE OF DAVIS AVENUE, AND RUNNING IN A SOUTHWESTERLY DIRECTION;

1. SOUTH 70° 05' WEST 200 FEET;

THENCE, RUNNING PARALLEL TO DAVIS AVENUE;

2. SOUTH 29° 00' EAST 100 FEET;

THENCE, RUNNING PARALLEL TO THE FIRST LINE OF

THIS DESCRIPTION;

3. NORTH 70° 05' EAST 200 FEET;

TO A POINT ON THE SOUTHWEST SIDE OF DAVIS AVENUE;

THENCE, RUNNING AND BINDING ON THE SOUTHWEST SIDE

OF DAVIS AVENUE;

4. NORTH 29° 00' WEST 100 FEET;

TO THE PLACE OF BEGINNING.

CONTAINING 19,750 SQUARE FEET, OR 0.4534 ACRES
OF LAND, MORE OR LESS.

PETITION FOR ZONING VARIANCE

2nd Election District

Case No. 86-463-A

LOCATION: Southwest Side of Davis Avenue, 370 feet Southeast of the Centerline of Acme Avenue

DATE AND TIME: Wednesday, May 14, 1986, at 11:00 a.m.

PUBLIC HEARING: Room 105, 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 Zoning Variance to permit side yard setbacks of 34 feet in lieu of the required 50 feet and Special Hearing to determine if an existing undersize lot can be relocated approximately 50 feet South

Being the property of Dorothy I. Raiford, as shown on plat plan filed with the Zoning Office.

In the event that this Petition(s) 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.

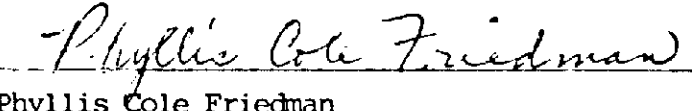
BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY

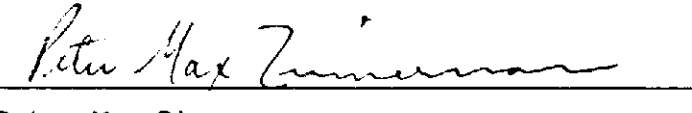
RE: PETITION FOR VARIANCE : BEFORE THE ZONING COMMISSIONER
PETITION FOR SPECIAL HEARING : OF BALTIMORE COUNTY
SW/S of Davis Ave., 370' SE :
of the C/L of Acme Ave.
2nd District :

DOROTHY I. RAIFORD, Petitioner : Case No. 86-463-ASP

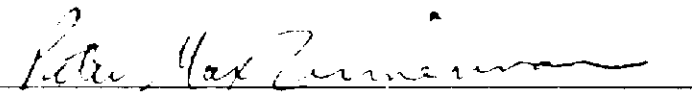
ENTRY OF APPEARANCE

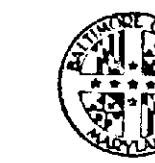
Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.


Phyllis Cole Friedman
People's Counsel for Baltimore County


Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 28th day of April, 1986, a copy of the foregoing Entry of Appearance was mailed to Raymond B. Via, Jr., Esquire, Jerome Blum & Associates, 11 E. Lexington St., Baltimore, MD 21202, Attorney for Petitioner.


Peter Max Zimmerman



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3355

ARNOLD JABLON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

May 6, 1986

Raymond B. Via, Jr., Esquire
Jerome Blum & Associates
6th Floor, 11 East Lexington
Street
Baltimore, Maryland 21202

RE: PETITION FOR ZONING VARIANCE
SW/S of Davis Ave., 370' SE of the C/L of Acme Ave.
2nd Election District
Dorothy I. Raiford - Petitioner
Case No. 86-463-A

Dear Mr. Via:

This is to advise you that \$74.35 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

THIS FEE MUST BE PAID AND THE ZONING SIGN AND POST RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

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

No. 021704

County, Maryland, and remit
to, Towson, Maryland

DATE	5/11/86	ACCOUNT	7-1-1-1-1-1
TO	TO BALTIMORE COUNTY - FEE		
AMOUNT	\$ 74.35		
RECEIVED FROM	Raymond B. Via, Jr.		
FOR	BALTIMORE COUNTY, MARYLAND		
VALIDATION ON SIGNATURE OF CASHIER			

6/4/87

Office of
PATUXENT
Publishing Corp.
10750 Little Patuxent Pkwy.
Columbia, MD 21044

April 24 19 86

THIS IS TO CERTIFY, that the annexed advertisement of

PETITION FOR VARIANCE
75971

was inserted in the following:

*Catonsville Times
Arbutus Times
weekly newspapers published in Baltimore County, Maryland
once a week for one successive weeks before
the 26 day of April 19 86, that is to say,
the same was inserted in the issues of

April 24, 1986

PATUXENT PUBLISHING CORP.
By *[Signature]*

Raymond B. Via, Jr., Esquire
Jerome Blum & Associates
11 East Lexington Street
Baltimore, Maryland 21202

April 14, 1986

NOTICE OF HEARING

RE: PETITION FOR ZONING VARIANCE
SW/S of Davis Ave., 370' SE of the c/l of
Acme Ave.
2nd Election District
Dorothy I. Raiford - Petitioner
Case No. 86-463-A

TIME: 11:00 a.m.

DATE: Wednesday, May 14, 1986

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

[Signature]
Zoning Commissioner
of Baltimore County

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

No. 021605

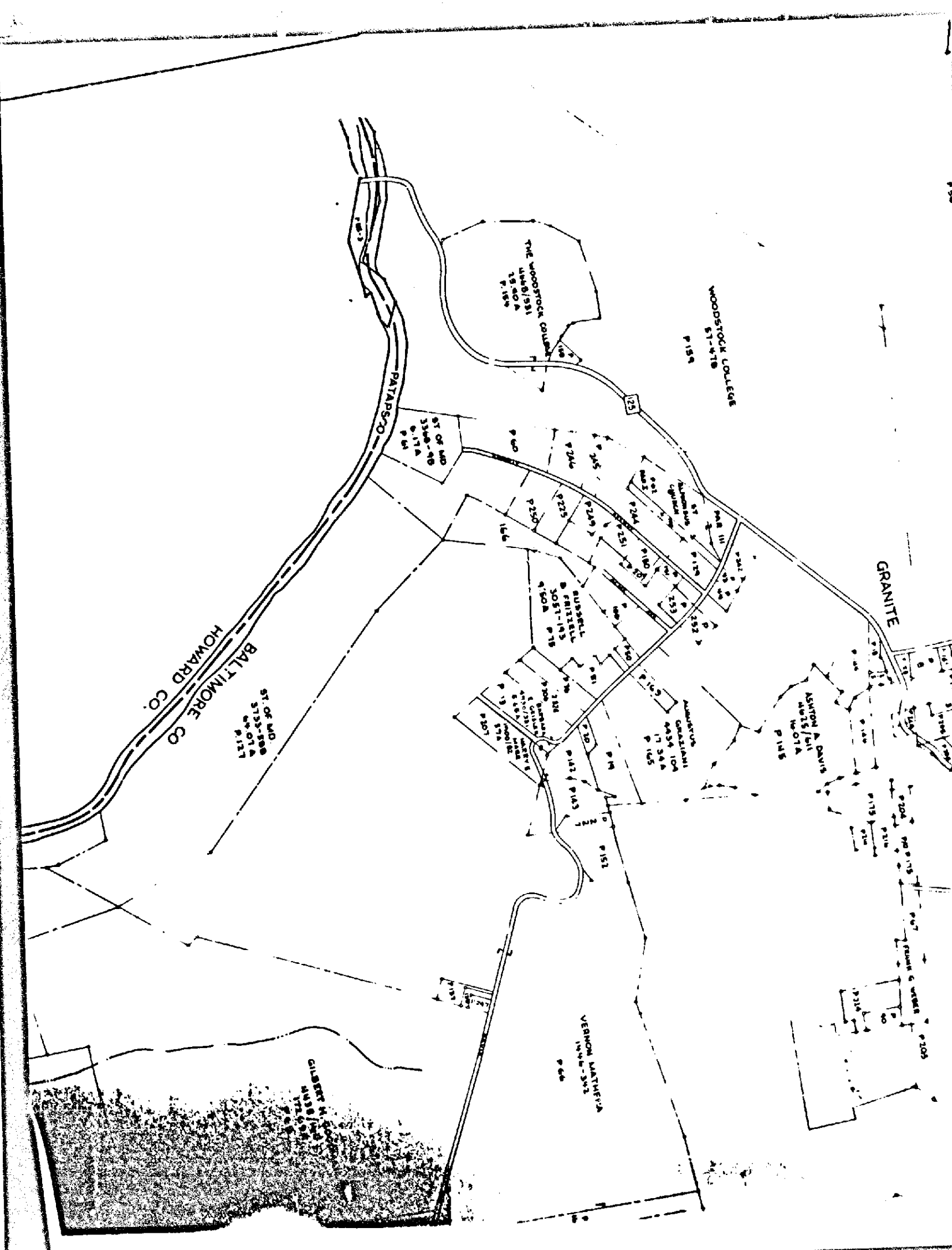
DATE: 4/23/86 ACCOUNT: 6-011-112-000

AMOUNT: \$ 35.00

RECEIVED FROM: Jerome Blum, Esquire

FOR: Special Hearing #225

VALIDATION OR SIGNATURE OF CASHIER



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
14th day of April, 1986.

[Signature]
ARNOLD JABLON
Zoning Commissioner

Petitioner: Dorothy I. Raiford Received by: James E. Dyer, Chairman
Petitioner's Attorney: Raymond B. Via, Jr., Esquire Zoning Plans Advisory Committee

CERTIFICATE OF PUBLICATION

TOWSON, MD., April 24, 1986

THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper printed
and published in Towson, Baltimore County, Md., appearing on
April 24, 1986.

THE JEFFERSONIAN,

[Signature]
Publisher

Cost of Advertising

24.75

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon
TO: Zoning Commissioner Date: April 30, 1986

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

Zoning Petition Nos. 86-459-A, 86-460-A,
SUBJECT: 86-461-A, 86-463-ASP, 86-464-A and 86-469-A

There are no comprehensive planning factors requiring comment on
these petitions.

[Signature]
Norman E. Gerber, AICP

NEG/JGH/sf

86-234
JUN 11 1986
JEROME BLUM
ATTORNEY AT LAW
11 E. LEXINGTON STREET
BALTIMORE, MARYLAND 21202
TELEPHONE 837-4010

HAROLD R. WEISBAUM
PAUL G. TOLMAN
RAYMOND B. VIA, JR.
ASSOCIATES

June 10, 1986

Jean M. H. Jung
Deputy Zoning Commissioner
Baltimore County Office of
Planning & Zoning
Towson, MD 21204

Re: Zoning Petition No: 86-463/ASP
Dorothy I. Raiford - Petitioner

Dear Ms. Jung:

Enclosed please find the requested Memorandum of Law in the above referenced
matter.

Very Truly Yours,

[Signature]
Raymond B. Via, Jr.

RBV:cw
Enclosure

86-234
MAY 22 1986
JEROME BLUM
ATTORNEY AT LAW
11 E. LEXINGTON STREET
BALTIMORE, MARYLAND 21202
TELEPHONE 837-4010

HAROLD R. WEISBAUM
PAUL G. TOLMAN
RAYMOND B. VIA, JR.
ASSOCIATES

May 22, 1986

Jean M. H. Jung
Deputy Zoning Commissioner
Baltimore County Office of Planning
& Zoning
Towson, MD 21204

Re: Zoning Petition No: 86-463/ASP
Dorothy I. Raiford - Petitioner

Dear Ms. Jung:

At the hearing on this matter held before you on May 14, 1986, you requested
a written memorandum from the petitioner with respect to the authority for creation
of an undersize lot on the subject property located in an RC-5 zone. I indicated
a memorandum could be expected to be filed with you in approximately two weeks or
on or about May 28, 1986.

Since that time my schedule has been revised and I will be out of town for
the week of May 26 to May 30. Therefore, if you have no objection I would like to
submit the memorandum to you during the following week, on or about June 5, 1986.

I hope that this request is acceptable to you and causes no inconvenience.
If there is a problem please contact my office at your earliest convenience.

Thank you for your cooperation in this matter.

Very Truly Yours,

[Signature]
Raymond B. Via, Jr.

RBV:cw

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

86-463-ASP

District: 2nd Date of Posting: 4-29-86

Posted for: Variance and Special Use

Petitioner: Dorothy I. Raiford

Location of property: SW/S of Davis Ave. 370' SE of the

c/l of Acme Ave.

Location of Sign: SW/Side of Davis Ave. in front of subject

Property

Remarks: *[Signature]*

Posted by: *[Signature]* Date of return: May 2-86

Number of Signs: 2

1986 MAR 18

Decd. Alide this 30th day of April 1986

one thousand nine hundred and fifty-eight, by and between DONALD L. BROOKS and SHIRLEY A. BROOKS, his wife, of Baltimore County, State of Maryland, of the first part, and RUSSELL B. FRIZZELL and ANNA B. FRIZZELL, his wife, of Baltimore County, State of Maryland, of the second part.

Witnesseth, that in consideration of the sum of Five Dollars (\$5.00) and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said DONALD L. BROOKS and SHIRLEY A. BROOKS, his wife, do hereby grant and convey unto the said RUSSELL B. FRIZZELL and ANNA B. FRIZZELL, his wife, as tenants by the entireties, their assigns, or survivor of them, his or her heirs and assigns, in fee simple, all that lot of ground, situate, lying and being in Second Election District, Baltimore County, aforesaid, and described as follows, that is to-wit:

ALL THAT LOT BEING BEING IN Second Election District, Baltimore County, State of Maryland, which according to a plat of said lot and conveyed in the Deed from John L. Ball to Robert D. Johnson, dated June 19, 1922, and recorded among the Land Records of Baltimore County in Liber W.O. No. 556, folio 341, etc., and the above mentioned West side of Davis Avenue, running and binding in a reverse direction on a part of said second line of line of division now made South 29 degrees 00' East 100' to a pipe now set and North 70 degrees 00' East 200' to a pipe on the West side of Davis Avenue, running and binding on the East side of Davis Avenue North 29 degrees 00' East 100' to the point of beginning, containing 0.45 of an acre, more or less.

BEING part of all that place or parcel of land which by Deed dated May 20, 1949 and recorded among the Land Records of Baltimore County in Liber O.L.B. No. 125, folio 127, was conveyed by John L. Ball to Robert D. Johnson, dated June 19, 1922, and recorded among the Land Records of Baltimore County in Liber W.O. No. 556, folio 341, etc., and the above mentioned West side of Davis Avenue, running and binding in a reverse direction on a part of said second line of line of division now made South 29 degrees 00' East 100' to a pipe now set and North 70 degrees 00' East 200' to a pipe on the West side of Davis Avenue, running and binding on the East side of Davis Avenue North 29 degrees 00' East 100' to the point of beginning, containing 0.45 of an acre, more or less.

1986 MAR 18

This Deed, Made this 30th day of November 1986

in the year one thousand nine hundred and fifty-eight, by and between DONALD L. BROOKS and SHIRLEY A. BROOKS, his wife, of Baltimore County, State of Maryland, of the first part, and RUSSELL B. FRIZZELL and ANNA B. FRIZZELL, his wife, of Baltimore County, State of Maryland, of the second part.

Witnesseth, that in consideration of the sum of Five Dollars (\$5.00) and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said DONALD L. BROOKS and SHIRLEY A. BROOKS, his wife, do hereby grant and convey unto the said RUSSELL B. FRIZZELL and ANNA B. FRIZZELL, his wife, as tenants by the entireties, their assigns, or survivor of them, his or her heirs and assigns, in fee simple, all that lot of ground, situate, lying and being in Second Election District, Baltimore County, aforesaid, and described as follows, that is to-wit:

ALL THAT LOT BEING BEING IN Second Election District, Baltimore County, State of Maryland, which according to a plat of said lot and conveyed in the Deed from John L. Ball to Robert D. Johnson, dated June 19, 1922, and recorded among the Land Records of Baltimore County in Liber W.O. No. 556, folio 341, etc., and the above mentioned West side of Davis Avenue, running and binding in a reverse direction on a part of said second line of line of division now made South 29 degrees 00' East 100' to a pipe now set and North 70 degrees 00' East 200' to a pipe on the West side of Davis Avenue, running and binding on the East side of Davis Avenue North 29 degrees 00' East 100' to the point of beginning, containing 0.45 of an acre, more or less.

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

April 30, 1986

County Office Bldg.
111 W. Chestnut Ave.
Towson, Maryland 21204

Raymond B. Via, Jr., Esquire
Jerome Blum and Associates
11 East Lexington Avenue
Baltimore, Maryland 21202

Chairman

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

Item No. 328 - Case No. 86-463-ASTN
Petitioner - Dorothy I. Raiford
Variance Petition

Dear Mr. Via:

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 ordinances 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,
James E. Dwyer
James E. Dwyer
Chairman
Zoning Plans Advisory Committee

JED:ace
Enclosures
cc: Silbermann and Associates
1703 East Joopa Road
Baltimore, Md. 21234

BALTIMORE COUNTY
ZONING PLANS ADVISORY COMMITTEE
TOWSON, MARYLAND 21204-2586
494-4500

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

APRIL 21, 1986

Re: Zoning Advisory Meeting of March 25, 1986
Item # 328
Property Owner: Dorothy I. Raiford
Location: SW/S Davis Ave. 370' SE of
Acme Ave.

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:

☒ There are no site planning factors requiring comment.
☒ 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, to issuance of a qualified permit.
☒ The access is not satisfactory.
☒ The circulation on this site is not satisfactory.
☒ The parking arrangement is not satisfactory.
☒ Preliminary 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 22-33 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 1/13/86.
☒ Landscaping: Just comply with Baltimore County Landscape Plan.
☒ The property is located in a deficient service area as defined by Bill 123-79. 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 specific area controlled by a low level traffic capacity. No building permit may be issued until the area is re-evaluated annually by the County Council.
☒ Additional comments:

Enclosure A, Taber
Chief, Current Planning and Development

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

STEPHEN E. COLLINS
DIRECTOR

April 1, 1986

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

Item No. -ZAC- Meeting of March 25, 1986
Property Owner:
Location:
Existing Zoning:
Proposed Zoning:

Acres:
District:

Dear Mr. Jablon:

The Department of Traffic Engineering has no comments for items numbered 324, 325, 326, 327, 328, 329, and 330.

Michael D. Davis
Traffic Engineer Associate II

MSF/hld

BALTIMORE COUNTY DEPARTMENT OF HEALTH

3/18/86
Date

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

Zoning Item # 328, Zoning Advisory Committee Meeting of March 25, 1986

Property Owner: Dorothy I. Raiford

Location: SW/S Davis Ave. 370' SE of Acme Ave. District 328

Water Supply Private Sewage Disposal Private

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, 494-3775, to obtain requirements for such installation/s before work begins.

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

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

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

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

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

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

SS 20 1082 (1)

Zoning Item # 328 Zoning Advisory Committee Meeting of March 25, 1986
Page 2

() Prior to razing of existing structure/s, petitioner must contact the Division of Water Quality and Waste Management at 494-3768, regarding removal and/or disposal of potentially hazardous materials and solid wastes.

() Any abandoned 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. Prior to removal or abandonment, owner must contact the Division of Water Quality and Waste Management at 494-3768.

(X) Soil percolation tests (must be) conducted.
() The results are valid until
() Soil percolation test results have expired. Petitioner should contact the Division of Environmental Support Services to determine whether additional tests are required.

() Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled.

() 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 and approval of Building Permit Applications.

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

() If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted.

() Others

Jan J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

SS 20 1283 (2) R

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204-2586
494-4500

PAUL H. REINCKE
CHIEF

Mr. Arnold Jablon
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: Dorothy I. Raiford
Location: SW/S Davis Avenue, 370' SE of centerline of Acme Avenue
Item No.: 328 Zoning Agenda: Meeting of 3/25/86

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 100 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] Noted and Approved: [Signature]
Planning Group Fire Prevention Bureau
Special Inspection Division

/mb

6/4/87



BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

April 23, 1986

TED ZALESKI, JR.
DIRECTOR

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

Dear Mr. Jablon:

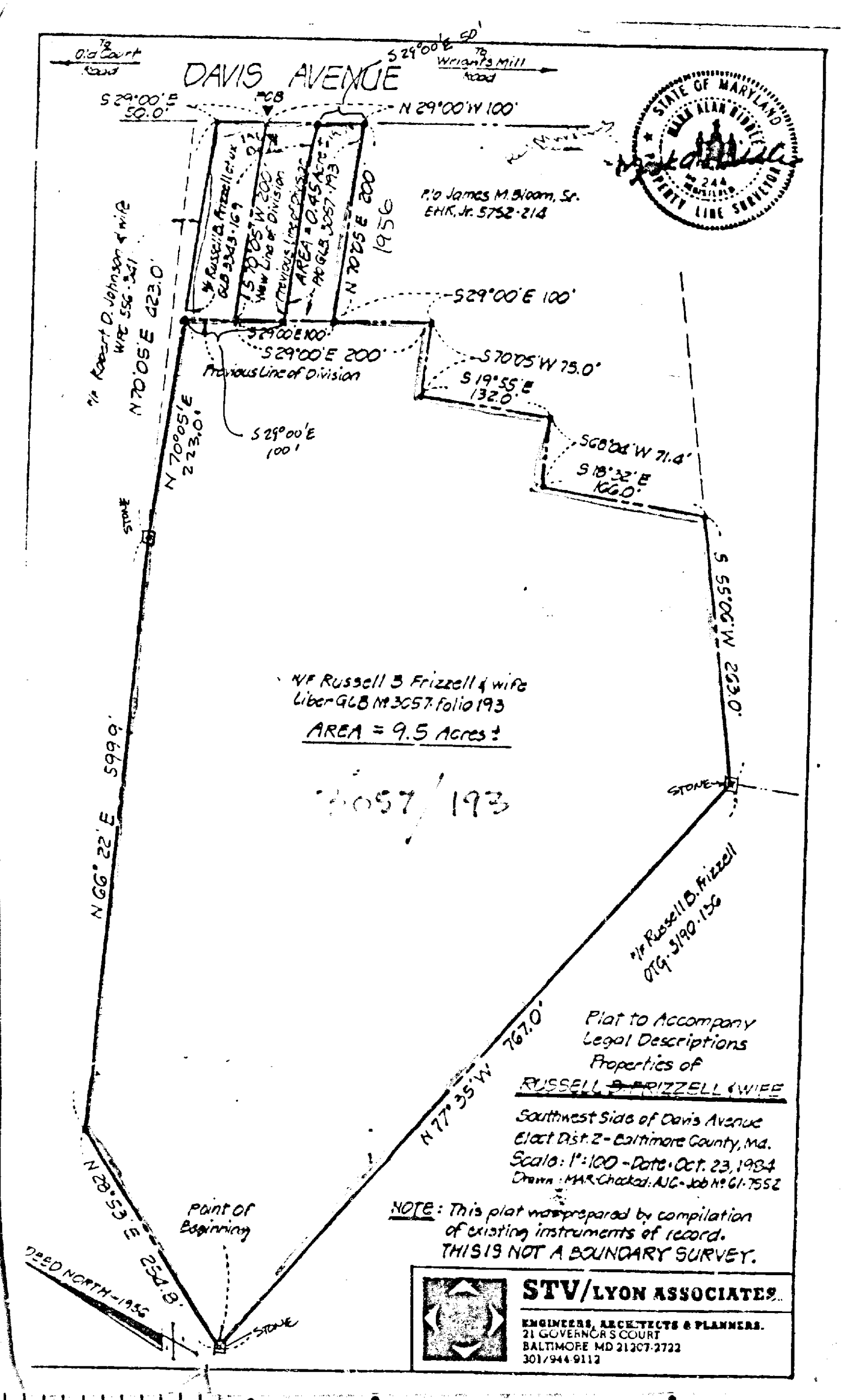
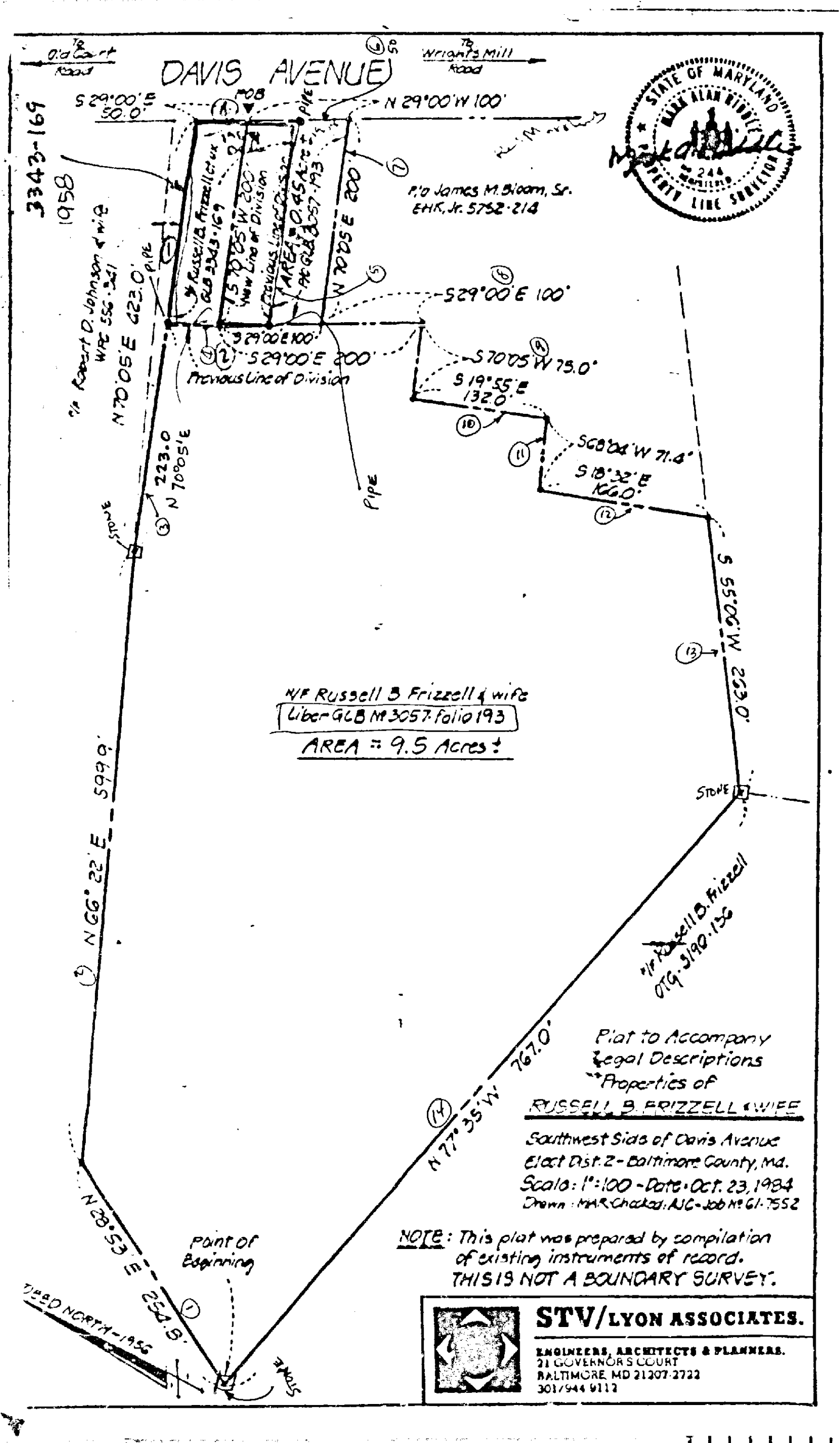
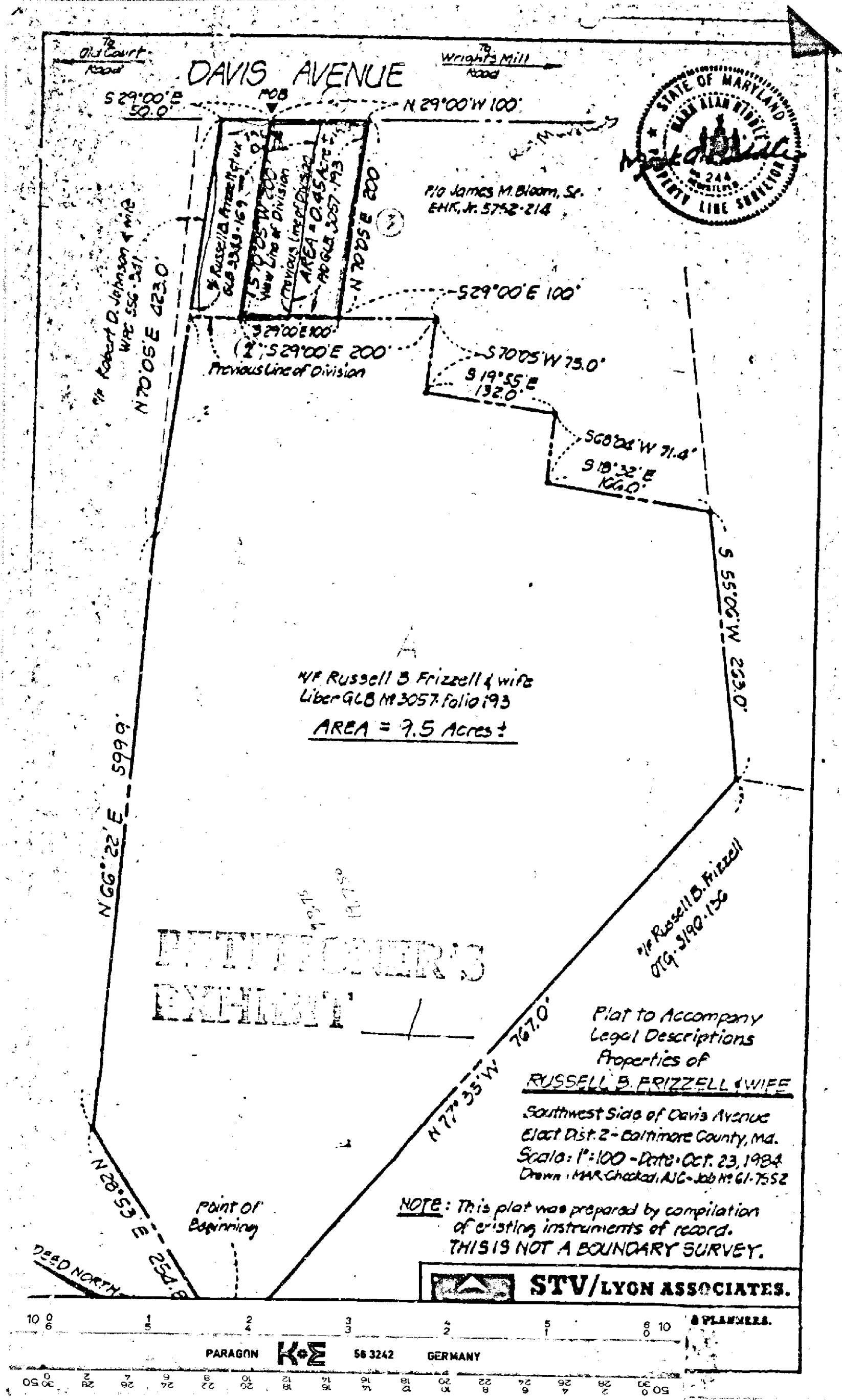
Comments on Item #328 Zoning Advisory Committee Meeting are as follows:

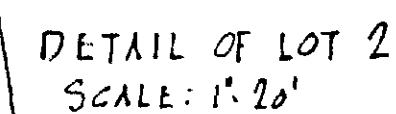
Property Owner: Dorothy I. Raiford
Location: SW/S Davis Avenue, 370 SE of c/l Acme Avenue
Districts: 2nd.

APPLICABLE ITEMS ARE CIRCLED:

- A. All structures shall conform to the Baltimore County Building Code as adopted by Council Bill #17-85, the Maryland Code for the Handicapped and Aged (A.N.S.I. #117-1 - 1980) and other applicable Codes and Standards.
- B. A building and other miscellaneous permits shall be required before the start of any construction.
- C. Residential: Two sets of construction drawings are required to file a permit application. The seal of a registered in Maryland Architect or Engineer is/is not required on plans and technical data.
- D. Commercial: Three sets of construction drawings sealed and signed by a registered in Maryland Architect or Engineer shall be required to file with a permit application. Reproduced seals are not acceptable.
- E. All Use Groups except R-4 Single Family Detached Dwellings require a minimum of 1 hour fire rating for exterior walls closer than 6'-0" to an interior lot line. R-4 Use Groups require a one hour wall if closer than 3'-0" to an interior lot line. Any wall built on an interior lot line shall require a fire or party wall. See Table 401, Section 1407, Section 1406.2 and Table 1402. No openings are permitted in an exterior wall within 3'-0" of an interior lot line.
- F. The structure does not appear to comply with Table 505 for permissible height/area. Reply to the requested variance by this office cannot be considered until the necessary data pertaining to height/area and construction type is provided. See Table 401 and 505 and have your Architect/Engineer contact this department.
- G. The requested variance appears to conflict with Section(s) _____, of the Baltimore County Building Code.
- H. When filing for a required Change of Use/Occupancy Permit, an alteration permit application shall also be filed along with three sets of acceptable construction plans indicating how the existing structure is to be altered in order to comply with the Code requirements for the new use. Maryland Architectural or Engineer seals are usually required. The change of Use Groups are from Use _____ to Use _____, or to Mixed Uses _____. See Section 312 of the Building Code.
- I. The proposed project appears to be located in a Flood Plain, Tidal/Riverine. Please see the attached copy of Section 516.0 of the Building Code as adopted by Bill #17-85. Site plans shall show the correct elevations above sea level for the lot and the finish floor levels including basement.
- J. Comments:
- K. These abbreviated 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 the applicant may obtain additional information by visiting Room 122 of the County Office Building at 111 W. Chesapeake Avenue, Towson, Maryland 21204.

Charles E. Burnham
BY: C. E. Burnham, Chief
Building Plans Review





SCALE : 1" = 500'



OF THE

RAIFORD PROPERTY.

2ND ELECTION DISTRICT

BALTIMORE COUNTY, MARYLAND OFFICE OF

SCALE : 1" = 50'

MAY' 22 1985

OWNER OF 0.45 ACRE - LOT 2
MRS. DOROTHY I. RAIFORD
DAVIS AVENUE
OWNER OF 95 ACRES - LOT 1

MR RUSSELL B. FRIZZELL AND WIFE
DAVIS AVENUE
BALTIMORE CO. MARYLAND

BALTIMORE CO. MARYLAND
 PETITIONER'S
 EXHIBIT 2



SILBERMAN
and **ASSOCIATES**
1703 east joppa road
baltimore, maryland 21234

• **ENGINEERS**
• **SURVEYORS**
• **PLANNERS**

2 copies
86-463-ASH

NO. 4240
REGISTERED
PROFESSIONAL ENGINEER

Harvey A. Harnum

△ REVISED 3/19/86.