

IN THE MATTER OF
THE APPLICATION OF
WILLIAM H. MATHEWS
FOR A VARIANCE ON PROPERTY
LOCATED ON THE NORTH SIDE OF
EAST BURKE AVENUE, 299' EAST
OF YORK ROAD
(10 E. BURK AVENUE)
9TH ELECTION DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 86-481-A

ORDER OF DISMISSAL

This matter comes before this Board on appeal from a decision of the Zoning Commissioner dated June 18, 1986.

WHEREAS, by letter dated April 16, 1992, the Board of Appeals notified the parties of record in the above-entitled matter that the appeal would be dismissed for lack of prosecution after a period of 30 days; and

WHEREAS, the Board has not received a reply from its letter of April 16, 1992, within 30 days as requested;

THEREFORE, the Board will, on its own Motion, dismiss the within appeal.

IT IS HEREBY ORDERED this 18th day of June, 1992 by the County Board of Appeals of Baltimore County that the above-referenced appeal in Case No. 86-481-A be and the same is hereby DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

June 18, 1992

Mr. William H. Mathews
4 Linden Terrace
Towson, MD 21204

RE: Case No. 86-481-A
William H. Mathews

Dear Mr. Mathews:

Enclosed is a copy of the Order of Dismissal issued this date by the County Board of Appeals in the subject matter.

Very truly yours,
Kathleen C. Weldenhammer
Kathleen C. Weldenhammer
Administrative Assistant

encl.

cc: Mr. Jeffrey Yarchin, Vice President
Towson Manor Village
Mr. John Gilfus
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
W. Carl Richards
Pocket Clerk - Zoning
Arnold Jablon, Director of
Zoning Administration

RECEIVED
JUN 19 1992
ZONING OFFICE

William H. Mathews
N/S E. Burke Avenue
299 E. of York Road
9th District

* Before The
* County Board of Appeals
* of
* Baltimore County
* 86-481-A

Var. - Lot width of 35 in.
lieu of 70'; Side Yard
setbacks; Lot area of
6370 S.F. in lieu of
8050 S.F. for a two (2)
apt. dwelling

REQUEST TO STRIKE APPEARANCE

Mr. Chairman, please strike the appearance of Newton A. Williams and Nolan, Plumbhoff and Williams, Chartered, on behalf of the Petitioner, William H. Mathews, at his request, who will either appear in proper person herein, or represented by new counsel, at his option.

Newton A. Williams
NEWTON A. WILLIAMS

Nolan, Plumbhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS,
CHARTERED
204 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 823-7800

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

100 p 5- NWT 1884
RECEIVED
COUNTY BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 5th day of January, 1987, a copy of the foregoing Request to Strike Appearance was mailed, prepaid to: William H. Mathews, 4 Linden Terrace, Phyllis C. Friedman, Esquire, People's Counsel and Peter M. Zimmerman, Esquire, Deputy People's Counsel, Court House, Towson, Maryland 21204.

Newton A. Williams
NEWTON A. WILLIAMS

1029A

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

2

IN RE: PETITION ZONING VARIANCES
N/S of East Burke Avenue,
299' E of York Road (10 East
Burke Avenue) - 9th Election
District

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 86-481-A

William H. Mathews,
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests variances to permit a lot width of 35 feet in lieu of the required 70 feet, side yard setbacks of zero feet and 9 feet in lieu of the required 15 feet, and a lot area of 6,370 square feet in lieu of the required 8,050 square feet for a two-family dwelling, as more particularly described on Petitioner's Exhibit 1.

The Petitioner appeared and testified and was represented by Counsel. Peggy Madden and Jane Eagle, adjacent property owners, as well as other nearby residents, testified on his behalf. Collier Conklin, President, Linden Village Community Association, who owns a nearby house and resides in Towson, and Hugh Gelston, an expert real estate appraiser, also testified on his behalf. In addition, the Petitioner presented petitions in support of his request. See Petitioner's Exhibit 3. Shannon Powers, Burleigh Square Community Association and a resident of the community, and Jeffrey Yarchin, Towson Manor Village Association and also a resident of the community, appeared in opposition. George Rick, an adjacent property owner, testified that he was not opposed to the request as long as the Petitioner did not rent to Towson State students. Joseph O'Brien, another adjacent property owner, testified that he was not opposed.

Testimony indicated that the Petitioner purchased the subject property, located on Burke Avenue and zoned D.R.16, in 1984. It is improved with

one-half of a fifty or sixty-year-old, two-story duplex dwelling. The Petitioner lives on Linden Terrace, directly behind the instant site, which is separated by a paper alley that has since been closed by order of the County Administrative Officer. One-half of the alley is now assigned to each of the properties owned by the Petitioner, thereby effectively extending each to a common boundary line. The Petitioner has spent \$20,000 in renovating the property. See Petitioner's Exhibit 2, photographs. He now wishes to separate this single-family dwelling into two apartments, one upstairs and the other downstairs, each with a separate access and separate living quarters and kitchens. The house is presently rented to two individual professional persons, one living upstairs and the other downstairs, but both share the single kitchen downstairs. The Petitioner is willing to restrict any prospective tenancy to two couples with no children and no students.

This neighborhood has had a long and troubled history involving absentee landlords and Towson State students. The proliferation of illegal rooming houses and conversions has caused much consternation to those residents who have lived in the community for many years and to those new families who desire to stabilize and maintain its economic and social structure. However, this particular case boils down to the installation of a kitchen, i.e., a stove, sink, and refrigerator. The Petitioner already rents the house to two people and could rent to two couples, thereby avoiding the "rooming house" pitfall. Living quarters, with access to each from each, already exist.

The Petitioner seeks relief from Sections 402.1 and 402.2, pursuant to Section 307, Baltimore County Zoning Regulations (BCZR).

Before the criteria established by Section 307 can be applied to the Petitioner's request, two issues must be addressed, i.e., the application of the Residential Transition Area (RTA) and whether the required lot area may be varnanced.

Although B.R.-zoned property is nearby, the property improved with the other half of the duplex adjoining the subject property to the west and the property on the opposite side to the east are zoned D.R.16. Section 1B01.1.B.1, BCZR, defines RTA as any D.R. zone or part thereof which lies within 300 feet of any point on a dwelling other than an apartment building. There is no question that the subject property is within an RTA. A residential transition use is any use permitted as of right in Section 1B01.1.A, BCZR. There is also no question that the Petitioner's proposed use is a residential transition use. A residential transition use is permitted, of course, if it satisfies those conditions delineated in Section 1B01.1.B.1.b, BCZR. The 35' x 232' lot dimensions prevent the satisfaction of Section 1B01.1.B.3. (a) and (b), BCZR, in this case.

Therefore, the first issue to be determined is whether the proposed use is exempted from the RTA requirements. In In Re: F & S Limited Partnership, Case No. 84-52-X, the Board of Appeals of Baltimore County determined that the RTA requirements do not apply as long as no external changes or additions are requested. See Section 1B01.1.B.1.d, BCZR. This decision was appealed to the Circuit Court, where it was upheld, and then to the Court of Special Appeals, where it was also upheld. There are no external changes or additions proposed by the Petitioner. Unless the Board either changes or alters its interpretation of its applicability to existing buildings, the decisions of the Circuit Court and the Court of Special Appeals, although the latter is unreported, are of sufficient status to preclude an opposite interpretation, no matter how much disagreement there might be.

As to the second issue of whether a lot area may be varnanced to satisfy Section 402.2, the Petitioner has a much more difficult terrain to cross. Section 307 specifically prohibits density from being varnanced by the Zoning Commissioner. Certainly, the Zoning Commissioner has the authority to grant

area variances, but when the area variance requested impacts density defined by the particular zoning classification, it is clear that such a variance cannot be granted. Section 402.2 requires a lot area of 8,050 square feet for a two-family dwelling in a D.R.16 zone. The Petitioner has only 6,370 square feet of lot area, approximately 1,700 square feet less than the requirement. A D.R.16 zone permits 16 gross density units per acre. Burke Avenue has many duplexes on lots comparable to the Petitioner's, and it is evident that the maximum density for the immediate area has already been utilized. If the variance to the lot area were granted, it would effectively increase the residential density beyond that which is otherwise allowable.

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

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 18th day of June, 1986, that the Petition for Zoning Variances be and is hereby DENIED.

Newton A. Williams
Zoning Commissioner of
Baltimore County

AJ/srl

cc: Newton A. Williams, Esquire
Mr. Jeffrey Yarchin
Ms. Shannon Powers
People's Counsel

ORDER RECEIVED FOR FILING
DATE June 18 1992
BY [Signature]

- 3 -

ORDER RECEIVED FOR FILING
DATE June 18 1992
BY [Signature]

- 2 -

ORDER RECEIVED FOR FILING
DATE June 18 1992
BY [Signature]

- 4 -

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 402.1 to permit a lot width of 35 feet in lieu of the required 70 feet and side setbacks of 0 feet on the West side (adjoining duplex wall) and 9 feet on the East side (open porch) in lieu of the required 15 feet and a lot area of 6370 square feet in lieu of the required 8050 square feet for a two apartment dwelling.

I, the undersigned, do hereby certify that the above stated facts are true and correct and that the undersigned is the legal owner(s) of the property for the following reasons: (indicate hardship or practical difficulty)

(SEE ATTACHED)

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:
William H. Mathews
(Type or Print Name)
Signature
4 Linden Terrace
Towson, Maryland 21204
City and State
Address
City and State
Attorney for Petitioner:
Newton Williams, Esq.
(Type or Print Name)
204 W. Pennsylvania Ave.
Towson, Maryland 21204
Signature
Address
City and State
Attorney's Telephone No.: 8237800
Address
City and State
Legal Owner(s):
William H. Mathews
(Type or Print Name)
Signature
(Type or Print Name)
Signature
Address
Phone No.
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Name
Address
Phone No.

ORDERED BY The Zoning Commissioner of Baltimore County, this 22nd day of April, 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 the petition be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 28th day of May, 1986, at 10:00 o'clock.

(over)
Zoning Commissioner of Baltimore County.

PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY for the following reasons: (indicate hardship or practical difficulty)

1. Existing 5 bedroom house too large and expensive to maintain as a single family house.
2. Adjoined by other 2 apartment dwellings on both sides of the building and throughout the DR-16 zone of which this property is a part in addition to many existing two apartment town houses on the south side of Burke Avenue.
3. Adjacent to a 5 storey office building in a BR-2S1 zone to be built in the spring of 1986 and other commercial establishments.
4. 200 yards or less from Towson State University and the busy Burke and York intersection.
5. Have the support from all surrounding immediate neighbors and the Linden Village Community Association, none of whom have any objections to this variance request.
6. Need for reasonable housing in the heart of downtown Towson is critical.
7. Too difficult to rent a 5 bedroom house at reasonable and affordable rate to meet the mortgage and other maintenance expenses and still make a profit.
8. Located in a high density DR-16 zone next door to an even higher density BR-2S1 zone.

ZONING DESCRIPTION

BEGINNING on the north side of Burke Avenue at the distance of Two hundred and ninety-nine (299) feet easterly from the corner formed by the intersection of the North side of Burke Avenue and the East side of the York Turnpike Road (or 100 feet west of the centerline of York Road). Being known as Lot 210 West Burke Avenue, in the eighteenth century plat of land formerly belonging to the estate of Henry Bowen, Esq., Liber 93, Folio 320, parcel 373 in the 9th Election District, Towson, Maryland. The lot then binds on the North side of Burke Avenue 35 feet thence northerly at right angles to Burke Avenue 182 feet to the south side of a formerly 20 feet unpaved grass alley formerly closed by order of the Assistant County Attorney on September 1, 1935 and thereby by the Act of 1935, Chapter 684 (Title 40-Street or Highway of Baltimore County, Maryland) passing title to the center of this alley to each adjoining property. Thence westerly binding on the south side of said alley 35 feet more or less to intersect a line drawn Northerly from the place of beginning at right angles to Burke Avenue and passing through the center of the partition or division wall of the house erected on the lot now being described and of the house erected on the adjoining lot to the west thereof and thence southerly reversing said line so drawn and binding thereon and passing through said division wall mentioned in the description of this lot. The property lies in a high density DR-16 zone immediately adjacent to an even higher density BR-2S1 zone.

Known as 10 East Burke Avenue in the 9th Election District.

177 feet to the place of beginning

ZONING DESCRIPTION

BEGINNING on the North side of Burke Avenue at a distance of 299 feet east of the intersection of the north side of Burke Avenue and the east side of York Road, thence binding on the north side of Burke Avenue 35 feet thence northerly at right angles to Burke Avenue 182 feet to the south side of a 20 foot alley, thence westerly binding on the south side of said alley 35 feet more or less to intersect a line drawn northerly from the place of beginning at right angles to Burke Avenue and passing through the center of the partition or division wall of the house erected on the lot now being described and of the house erected on the adjoining lot to the west thereof and thence southerly reversing said line so drawn and binding thereon and passing through said division wall 177 feet to the place of beginning.

Known as 10 East Burke Avenue in the 9th Election District.

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 8, 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 May 8, 1986.

THE JEFFERSONIAN.

138 Kentish
Publisher
Cost of Advertising
27.50

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 22nd day of April, 1986.

Petitioner: William H. Mathews
Petitioner's Attorney: Newton Williams, Esq.
Received by: James E. Dyer
Chairman, Zoning Plans Advisory Committee

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

No. 218502
DATE 4/22/86 ACCOUNT 01-615
AMOUNT \$ 100.00
RECEIVED FROM William H. Mathews
FOR Planning & Zoning - 10 East Burke Ave.
VALIDATION OR SIGNATURE OF CASHIER

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

No. 21785
DATE 7/14/86 ACCOUNT 01-615-000
AMOUNT \$ 42.50
RECEIVED FROM Newton Williams, Esq., Chartered
204 W. Pennsylvania Ave., Towson, MD. 21204
FOR Planning & Zoning - 10 East Burke Ave.
VALIDATION OR SIGNATURE OF CASHIER

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

No. 21718
DATE 5/28/86 ACCOUNT 01-615-000
AMOUNT \$ 85.00
RECEIVED FROM William H. Mathews
FOR Planning & Zoning - 10 East Burke Ave.
VALIDATION OR SIGNATURE OF CASHIER

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 9th Date of Posting: 5/21/86
Posted for: Mathews
Petitioner: William H. Mathews
Location of property: N/S of E. Burke Ave., 299' E of York Rd.
Location of Sign: 10 E. Burke Ave.
Remarks: Property is in a high density DR-16 zone next door to an even higher density BR-2S1 zone.
Posted by: Mathews
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 7, 1986
THIS IS TO CERTIFY, that the annexed advertisement was published in the TOWSON TIMES, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on May 7, 1986.

TOWSON TIMES,

138 Kentish
Publisher

42.50

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 9th Date of Posting: 7/25/86
Posted for: Appeal
Petitioner: William H. Mathews
Location of property: N/S of E. Burke Ave., 299' E of York Rd.
Location of Sign: 10 E. Burke Ave.
Remarks: Property is in a high density DR-16 zone next door to an even higher density BR-2S1 zone.
Posted by: Mathews
Number of Signs: 1

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

ARNOLD JABLON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

May 21, 1986

Newton A. Williams, Esquire
Nolan, Plunhoff & Williams, Chartered
204 West Pennsylvania Avenue
Towson, Maryland 21204

RE: PETITION FOR ZONING VARIANCES
N/S of East Burke Ave., 299' E of York Rd.
(10 East Burke Ave.)
9th Election District
William H. Mathews - Petitioner
Case No. 86-431-A

Dear Mr. Williams:

This is to advise you that \$85.00 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.

Do not remove sign from property from the time it is placed by this office until the day of the hearing itself.

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

Sincerely,

Arnold Jablon
Zoning Commissioner

AJmed

Newton A. Williams, Esquire
Nolan, Plunhoff & Williams
204 West Pennsylvania Avenue
Towson, Maryland 21204

April 25, 1986

NOTICE OF HEARING

RE: PETITION FOR ZONING VARIANCES
N/S of East Burke Ave., 299' E of York Rd.
(10 East Burke Ave.)
9th Election District
William H. Mathews - Petitioner
Case No. 86-481-A

TIME: 10:00 a.m.

DATE: Wednesday, May 28, 1986

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

Attn: Mr. William H. Mathews

4 Linden Terrace
Towson, Maryland 21204

[Signature]
Zoning Commissioner
of Baltimore County

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

May 6, 1986

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

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

Newton Williams, Esquire
204 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No. 316 - Case No. 86-481-A
William H. Mathews - Petitioner
Petition for Zoning Variations

Dear Mr. Williams:

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,

[Signature]
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:md
Enclosures

cc: Mr. William H. Mathews
4 Linden Terrace
Towson, Maryland 21204



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. 316 -ZAC-
Property Owner:
Location:
Existing Zoning:
Proposed Zoning:

Meeting of March 13, 1986
William H. Mathews
N/S East Burke Avenue: 299' E York Road
D.R. 16
Variance to permit a lot width of 35' in lieu of the required 70' and side setbacks of 0' on the West side (adjoining duplex wall) and 9' on the east side (open arch) in lieu of the required 15' and a lot area of 6370 square feet in lieu of the required 35' x 182' 35' x 182' 9th

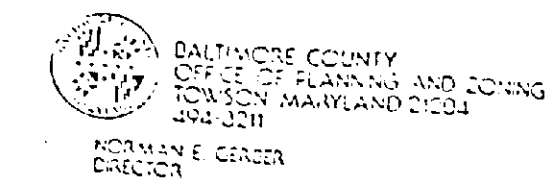
Acres:
District:

Dear Mr. Jablon:

This site should provide off street parking for the apartments.

MSF/bld

[Signature]
Michael S. Flahigan
Traffic Engineer Associate II



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

MAY 12, 1986

RE: Zoning Advisory Meeting of March 18, 1986
Item - 316
Property Owner: William H. Mathews
Location: N/S East Burke Ave. 299' E York 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 where 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 22-58 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 1/11/86.
- ☒ The property is located in a deficient service area as defined by the Baltimore County Master Plan.
- ☒ The proposed Development Plan was approved by the Planning Board on 1/11/86.
- ☒ The property is located in a traffic area controlled by a "D" level intersection as defined by Bill 173-79, and as conditions change traffic capacity may become more limited. The basic services areas are reevaluated annually by the County Council.
- ☒ Additional comments:

cc: James Howell

Stephen E. Collins
Chief, Current Planning and Development



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

PAUL H. REINCKE
CHIEF

April 10, 1986

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: William H. Mathews

Location: N/S East Burke Avenue. 299' E York Road

Item No.: 316 Zoning Agenda: Meeting of 3/18/86

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 _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWED BY: *[Signature]* Noted and Approved: *[Signature]*
Special Inspection Division Fire Prevention Bureau



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

April 14, 1986

TED ZALESKI, JR.
DIRECTOR

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

Dear Mr. Jablon:

Comments on Item # 316 Zoning Advisory Committee Meeting are as follows:

Property Owner: William H. Mathews
Location: N/S East Burke Avenue, 299' E York Road
District: 9th.

APPLICABLE ITEMS ARE COMMENTED:

() All structures shall conform to the Baltimore County Building Code as adopted by Council Bill #17-85, the Maryland Code for the Handicapped and Age (A.D.A. #121, - 1980) and other applicable codes and standards.

() 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.

() All Use Groups except B-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. But Use Groups require a one hour wall if closer than 3'-0" to an interior lot line. Any wall built as an interior lot line shall require a fire or party wall. See Table 401, Section 1107, Section 1106.2 and Table 1107. 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 the _____ to the _____ or to Mixed Uses. See Section 312 of the Building Code.

I. The proposed project appears to be located in a Flood Plain, Flood Hazard. 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.

() Comments: It appears there is a property line separating the two dwellings (2 hr. in rating). If it is two properties there would be required the combination of the 2 hour separations on the side of the porch that adjoins #8 Burke Ave. Should the porch be moved off and away the property line, then the above 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 117 of the County Office Building at 111 W. Chesapeake Avenue, Towson, Maryland 21204.

[Signature]
By: C. E. Brown, Chief
Building Plans Review

4/22/86

BALTIMORE COUNTY BUILDING CODE

1984 BOCA, SECTION 110.6

CODE MEMORANDUM #1

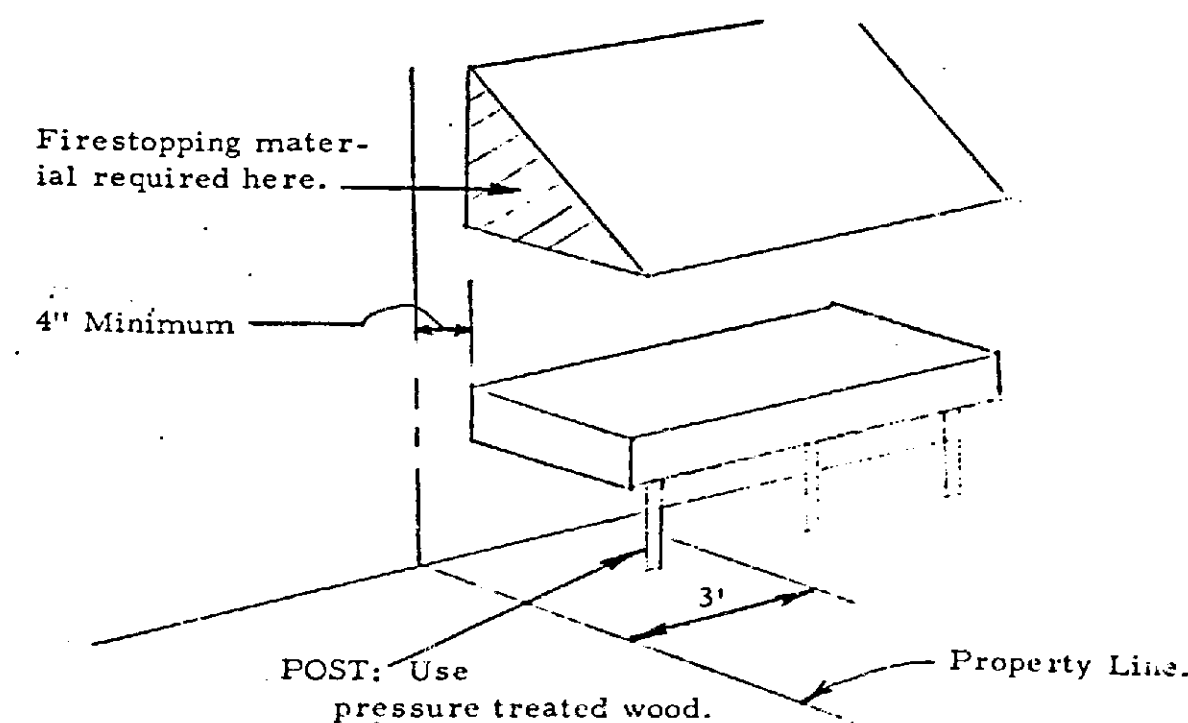
Effective 4-22-85

SUBJECT:

A. Rear Porches

Rear open porches may be constructed of combustible materials up to 3 feet from a property line without any additional fire protection requirements.

Rear open porches may be constructed of combustible materials up to 4" from a property line if facing surfaces shown (see diagram) are protected by a layer of drywall, fire retardant treated plywood, or other approved firestopping material and any exposed supporting members within 3 feet are non-combustible, or pressure treated wood.



OVER

CODE MEMORANDUM #1 (Cont'd.)

B. Front Porches

Front awnings and porches may be continuous across property lines and of combustible construction if:

- They are properly fire stopped with non-combustible materials at each interior property line.
- They have no combustible or untreated supporting members within 36" of the interior property line.
- They are limited to one story in height.
- The adjoining owners agree in writing.
- The porch is open front and sides.

Drywall and sheet metal are examples of non-combustible materials which are acceptable for fire stopping.

C. All Porches

If any porch is to be closed, it shall be considered a habitable part of the dwelling's interior and shall be subjected to all of the applicable requirements that pertain to one and two family dwellings in the Baltimore County Building Code.

This does not in any way waive any requirements, such as setbacks of other County or State Departments, which may also be applicable.

[Signature]
John R. Reisinger, P. E.
Buildings Engineer

JRR:es

86-2545
LAW OFFICES
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
204 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
(301) 823 7800
OF COUNSEL
RALPH E. DEITZ
9076 LIBERTY ROAD
RANDALLSTOWN, MARYLAND 21133
(301) 922 2121
RUSSELL J. WHITE

June 4, 1986

Honorable Arnold Jablon
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

W.H.M.
Re: Mathews Property
10 E. Burke Avenue
Case No. 86-481-A

Dear Commissioner Jablon:

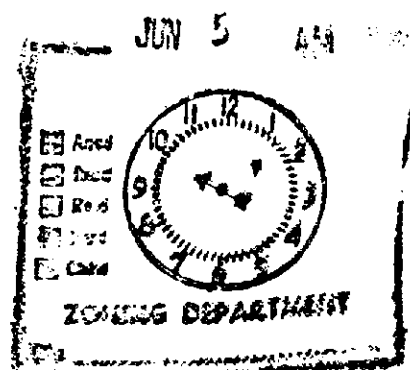
At the close of the hearing the other day, certain questions arose as to the effect of residential transition areas.

As we discussed, it is my understanding that the Board of Appeals have ruled in a rooming house case that where the exterior appearance of a use is not changed, that residential transition areas do not necessarily apply.

I have carefully reviewed the residential transition area provisions of the Zoning Regulations found in Section 1801.1 B. and I would submit that the main rationale of residential transition areas is directed toward appearance with some emphasis upon use.

As was brought out at the hearing, 10 East Burke Avenue is one-half of an existing, older duplex, which Mr. Mathews has put back into excellent condition.

As was brought out at the time of the hearing, when these large, older duplexes were built, they were typically occupied in many cases by a family consisting of a mother, father, anywhere from two (2) to four (4) children, often a grandparent or grandparents, and in many cases a domestic servant. Thus, it was not at all uncommon for as many as six (6) to eight (8) people to occupy such a very fine residence in the early days.



Honorable Arnold Jablon
June 4, 1986
Page 2

In contrast, today Burke Avenue is a very busy street, which some term "Burke Boulevard", and Mr. Mathews has two (2) very quiet tenants, both of whom are professional women.

As for the external appearance of 10 East Burke Avenue, the pictures speak for themselves, and it is apparent that Mr. Mathews has closely preserved the original appearance and, indeed, brought the property back to its excellent condition typical of when it was built sometime around the First World War.

We would respectfully submit that Mr. Mathews residential use with the two (2) apartments will be of a lesser intensity than the original single family residential use of this property, and Mr. Mathews is agreeable to a provision that no Towson State undergraduate students would be allowed.

Furthermore, Mr. Mathews would agree that the maximum tenancy would be two (2) couples, i.e. a married couple in each apartment without children.

As for the situation as to the area of the lot, Mr. Mathews home property known as 4 Linden Terrace is directly behind and abuts the rear of 10 East Burke Avenue. Thus, should you decide that the area of 10 East Burke Avenue cannot be the subject of a variance, we are in a position by means of appropriate metes and bounds conveyances to convey a sufficient amount of area to 10 East Burke Avenue to meet that requirement.

Should you have any further questions or comments, we will be glad to respond, and should you wish to meet with us, we will be glad to do so, and, of course, we would ask that Mrs. Shannon Powers be included in any meeting.

Thanking you and your staff for your attention in this matter, I am

Respectfully,

Newton A. Williams
Newton A. Williams

NAW:ylm
cc: Mrs. Shannon Powers
Mr. William H. Mathews

4 Linden Terrace
Towson, Maryland 21204
July 8, 1986

Honorable Arnold Jablon
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Re: 10 E. Burke Avenue
Case No. 86-481-A

Dear Commissioner Jablon:

Please note an appeal to the County Board of Appeals from your Opinion and Order of June 18, 1986 with regard to the above-entitled matter. Enclosed please find a check in the amount of \$90.00 made payable to Baltimore County, Maryland.

Thank you for your prompt attention to this matter.

Very truly yours,

William H. Mathews

WHM:ylm

Enclosure

cc: Baltimore County Board of Appeals
People's Counsel for Baltimore County
Mrs. Shannon Powers

RECEIVED
COUNTY BOARD OF APPEALS
NO JUL 11 A 9 41

Honorable Arnold Jablon
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Re: 10 E. Burke Avenue
Case No. 86-481-A

Dear Commissioner Jablon:

Please note an appeal to the County Board of Appeals from your Opinion and Order of June 18, 1986 with regard to the above-entitled matter. Enclosed please find a check in the amount of \$90.00 made payable to Baltimore County, Maryland.

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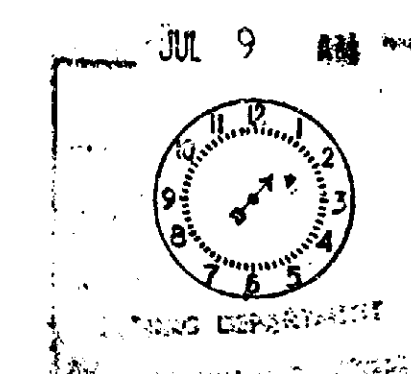
Very truly yours,

William H. Mathews
William H. Mathews

WHM:ylm

Enclosure

cc: Baltimore County Board of Appeals
People's Counsel for Baltimore County
Mrs. Shannon Powers



January 12, 1987

The Honorable
Mr. William H. Mathews,
Chairman of the
Baltimore County Board of Appeals
Room 200
County Office Building
Towson, MD 21204

Dear Mr. Chairman,

There have been unfortunate delays in surveying work being carried out to meet the minimum area requirements asked for in case number 86-481-A scheduled for a Baltimore County Board of Appeals hearing on January 25th at 10 A.M. In addition our planning neighbors to my property mentioned in this case and I are asking for the closing of a power alley, a portion of which has already been partially closed. County Attorney Mr. Snyder is helping us with this matter and a public hearing will be scheduled in the coming months to enable that alley to be closed permanently - at which time the property mentioned above in case number 86-481-A will gain by the law of 1986 additional land to add to the minimum area requirements and thus, the hope of the appeal being brought before you. I would like to request at this time a postponement of the Appeals hearing until the County Attorney has had time to hold his hearing on the concerned alley closing along with time for any possible appeal of that hearing and time to allow the surveyors to draw up plat revisions taking into consideration land granted by way of the alley closing and sufficient land from an adjoining property I own which might be ceded and attached to the one mentioned in this case.

If you would be so kind as to agree to the above request perhaps as soon as we have heard from the County Attorney's Office about the final order closing the power alley behind the property of my neighbors and myself a copy of his order will be sent to you. It is hard to say to you no that a future date might be set for the Board of Appeals to hear the case.

Thanking you in advance for your consideration of this request,

I am,

Sincerely,

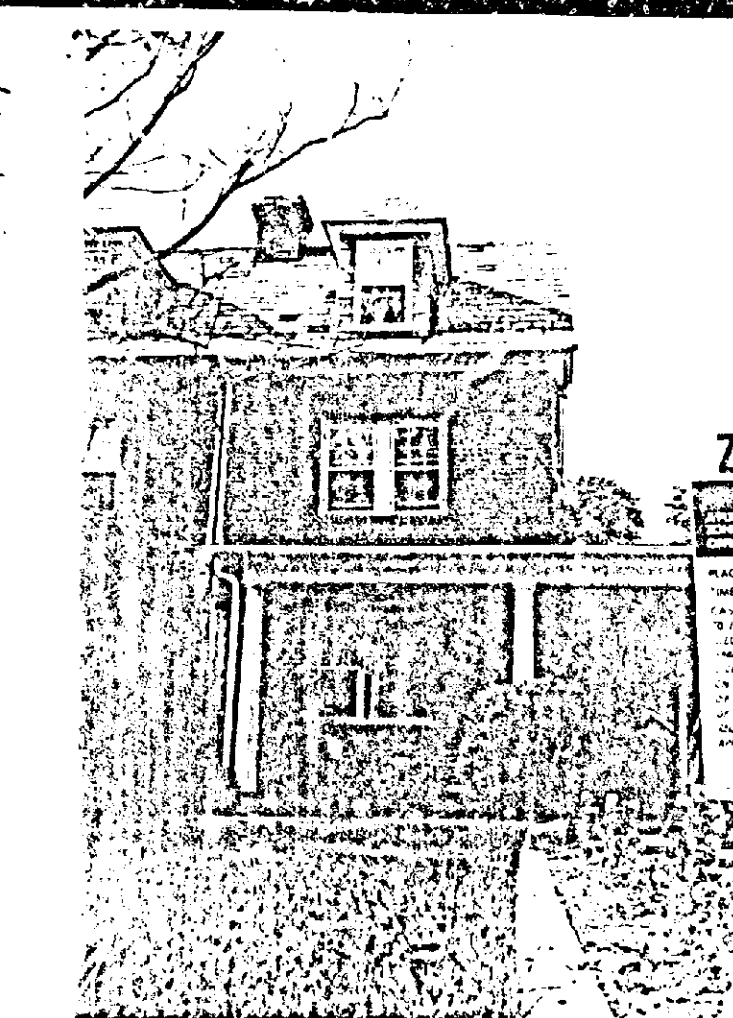
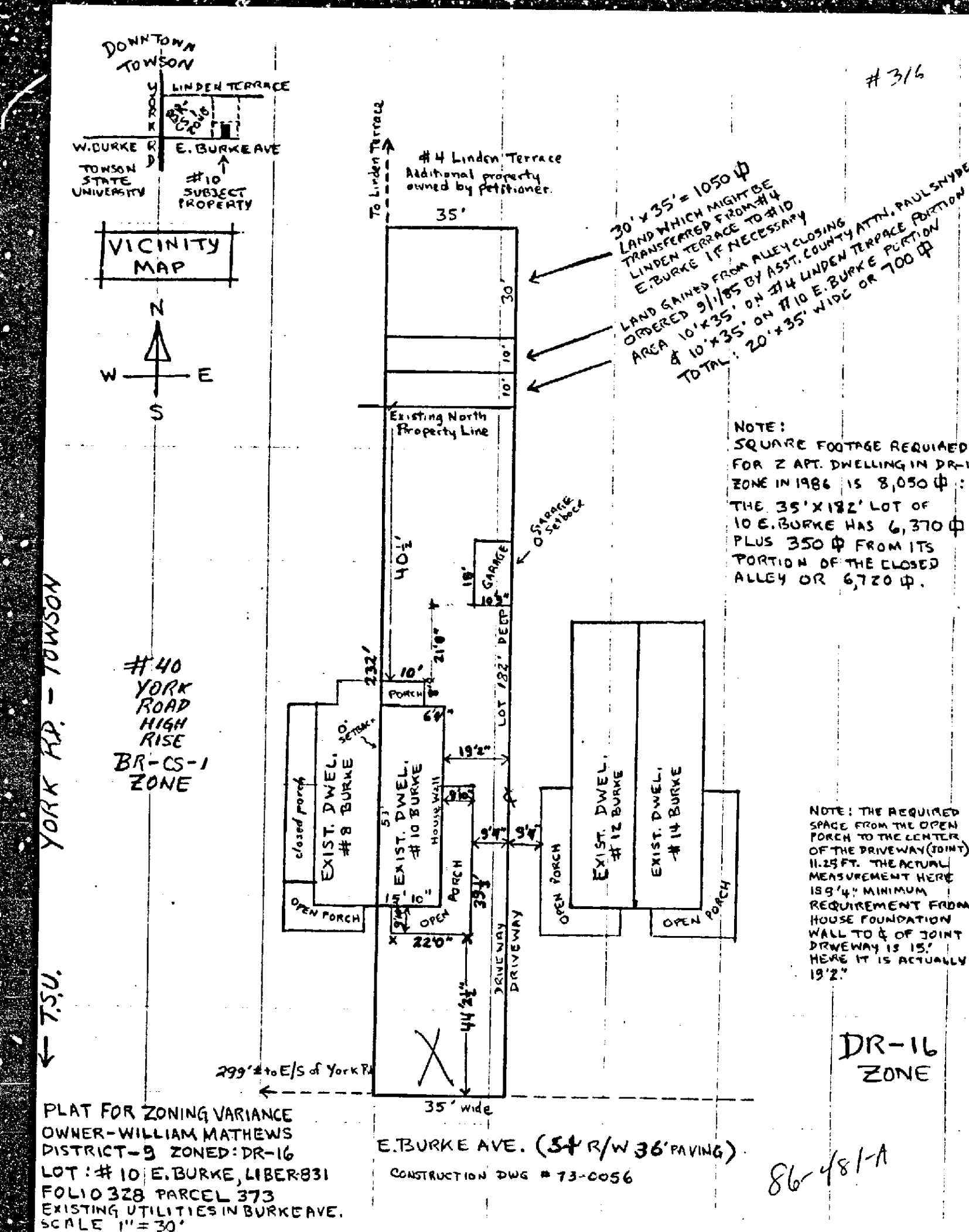
William H. Mathews
William H. Mathews,
Petitioner,
Box 5501
Towson, Maryland 21204

33 668-1111 (w)
321-6654 (H)

#86-481-A

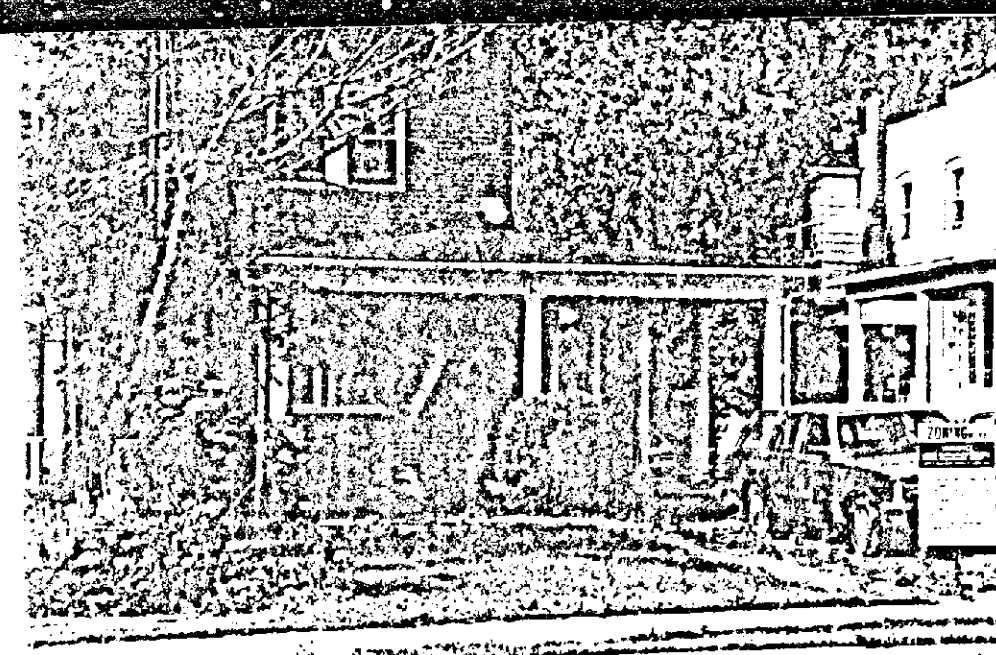
NAME	_____
DATE	_____
NO.	_____
1000	_____
UP	_____

EXHIBITS



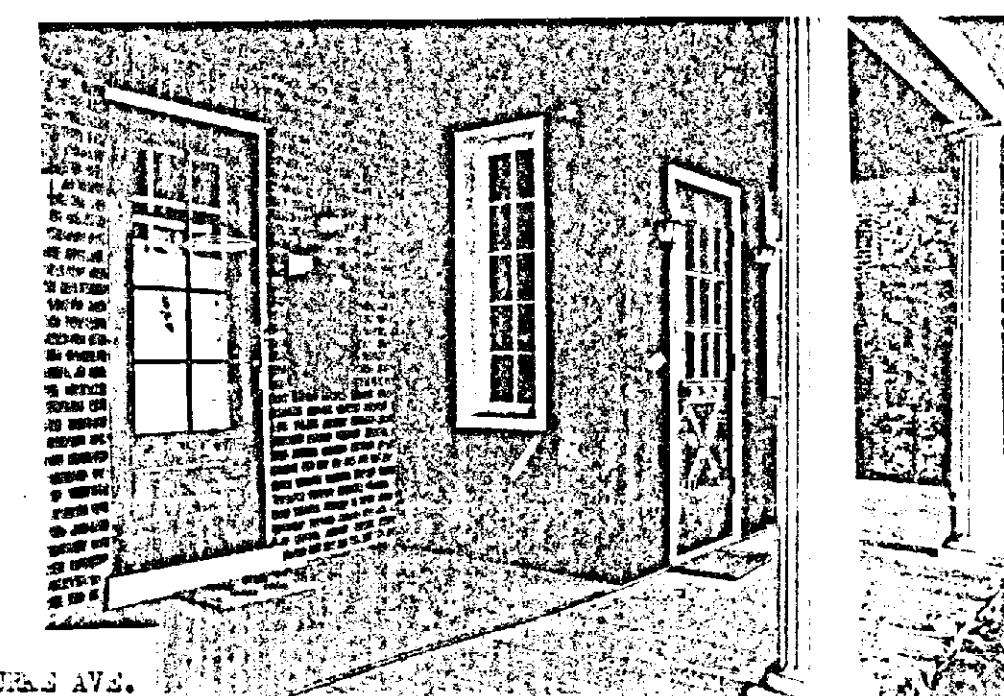
10 E. BURKE AV.
TOLSON

Photographs showing the landscaping and painting done by the petitioner since acquiring the property in 1984.



10 E. BURKE AVE.
TOWSON

PARKING SPACES
AVAILABLE FOR
6 CARS IF NEEDED
DRIVEWAY IS 136
DEEP EXCLUDING
GARAGE DEPTH &
SPACE IN FRONT
OF STOPS.



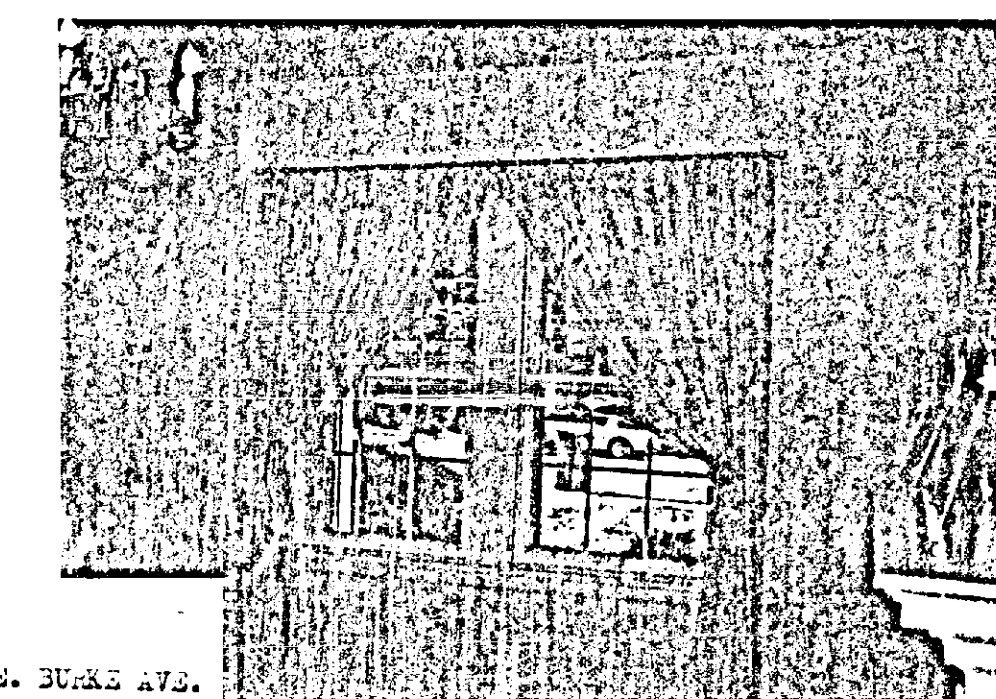
10 E. BUREAU AVE
TOWSON

TWO OF THE FIVE
ENTRANCES INTO
THE BUILDING



10 E. BURKE RD.
TOWSON

LIVING ROOM
first floor



10 S. BURKE AVE
TOWSON

LIVING ROOM
first floor



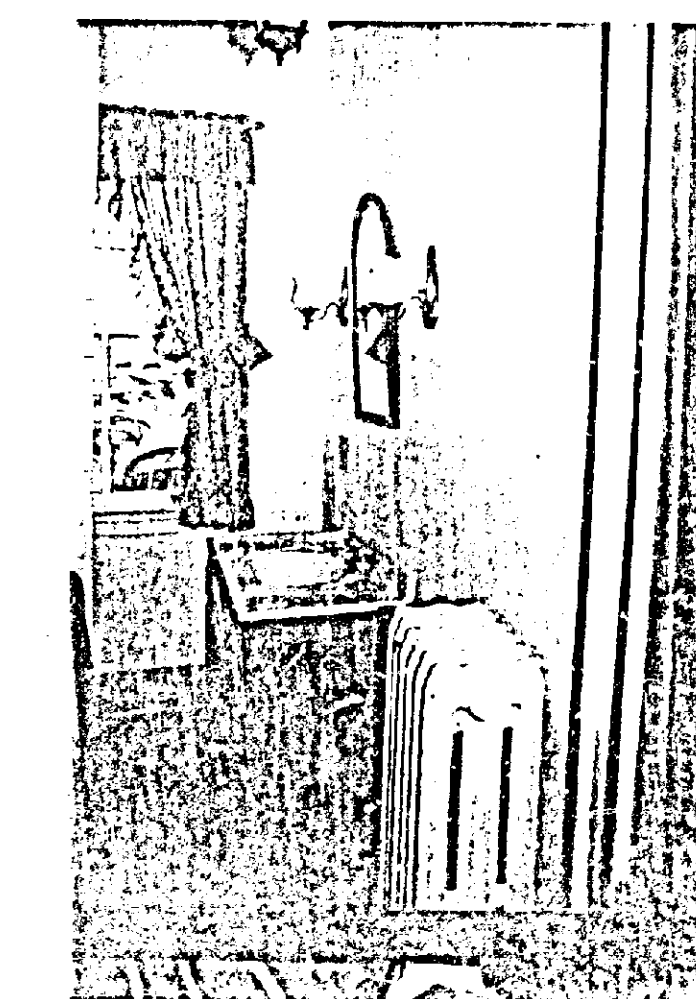
10 E. BURKE AVE.
CHICAGO

350001
first floor



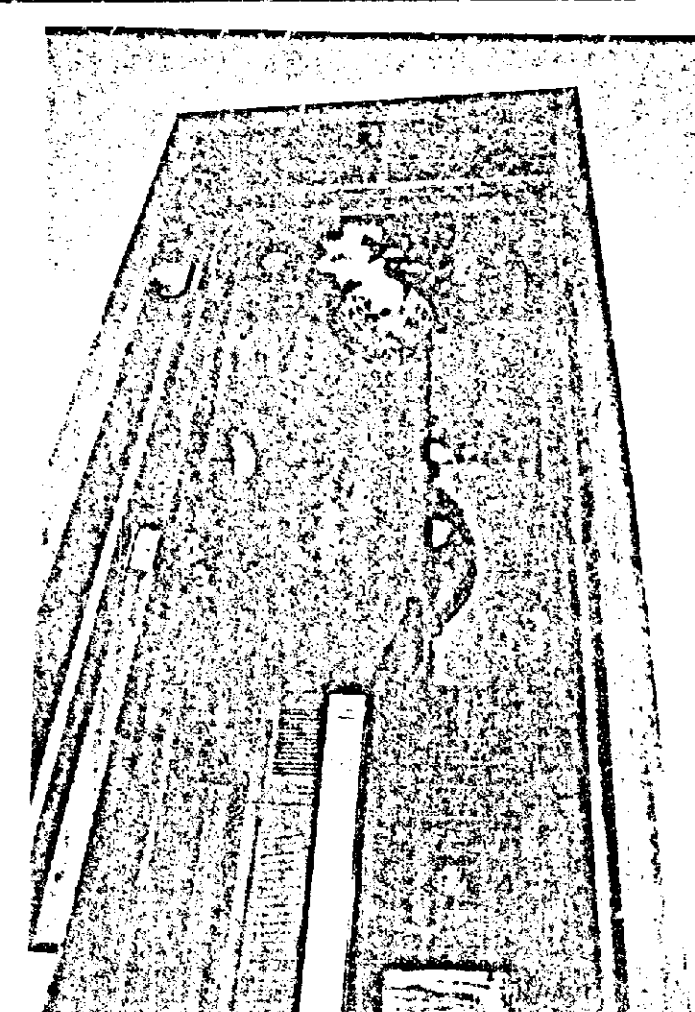
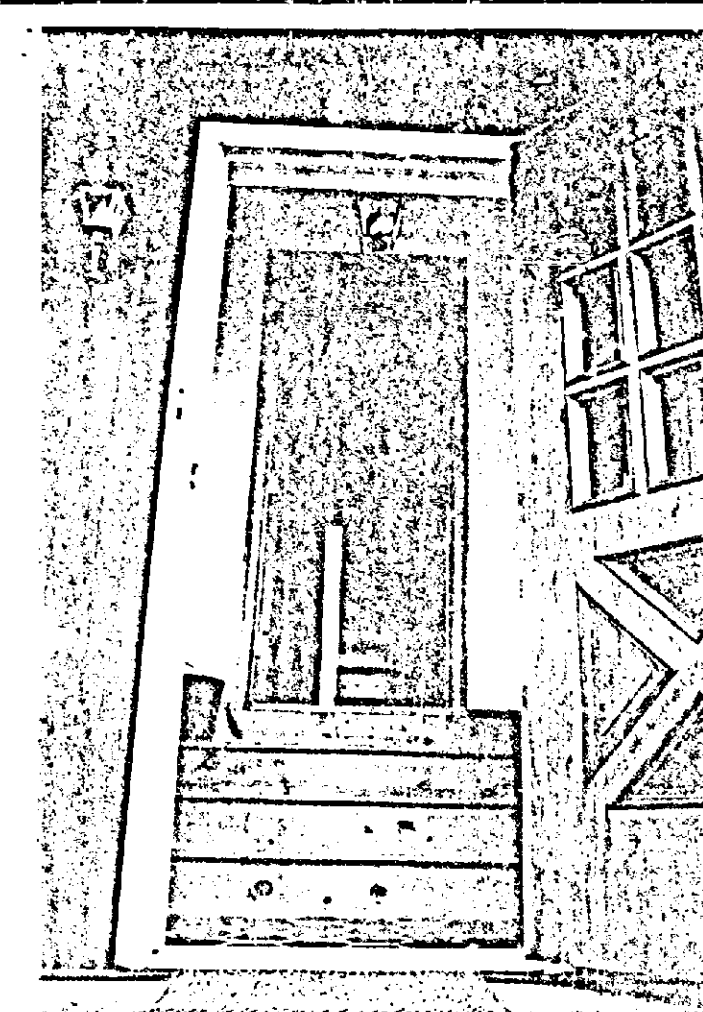
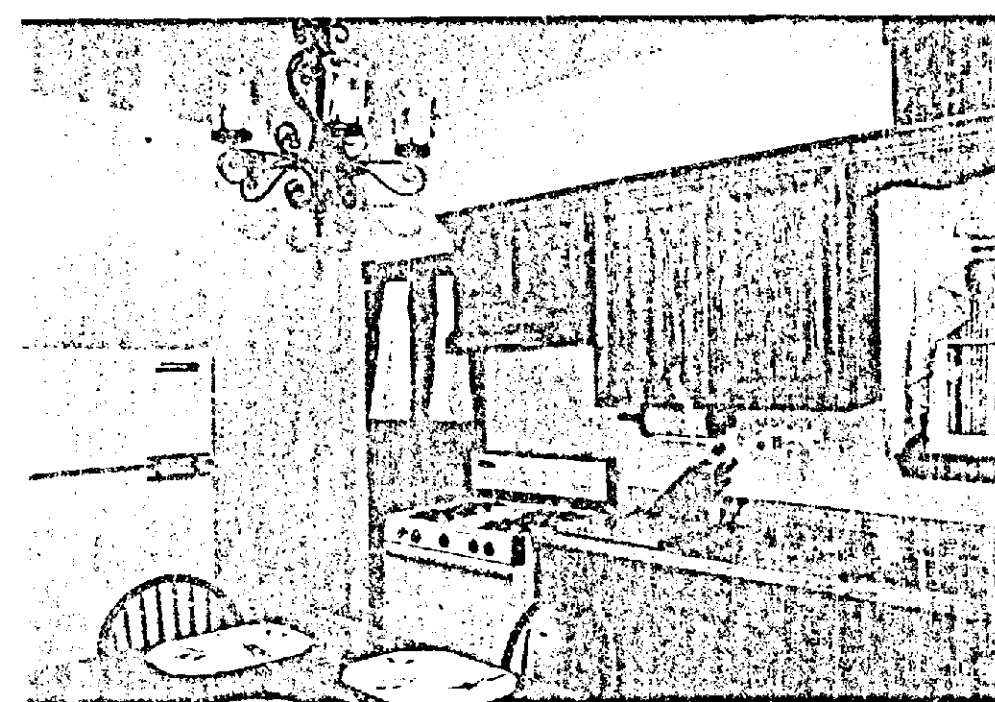
10 E. BURKE AVE
TOWSON

BATHROOM
first floor

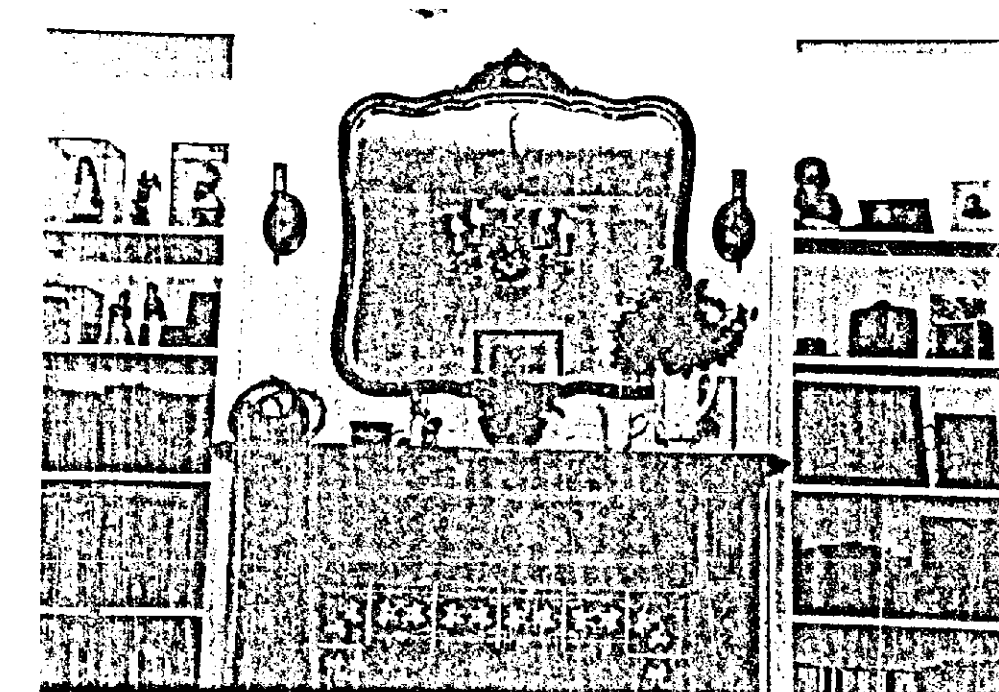
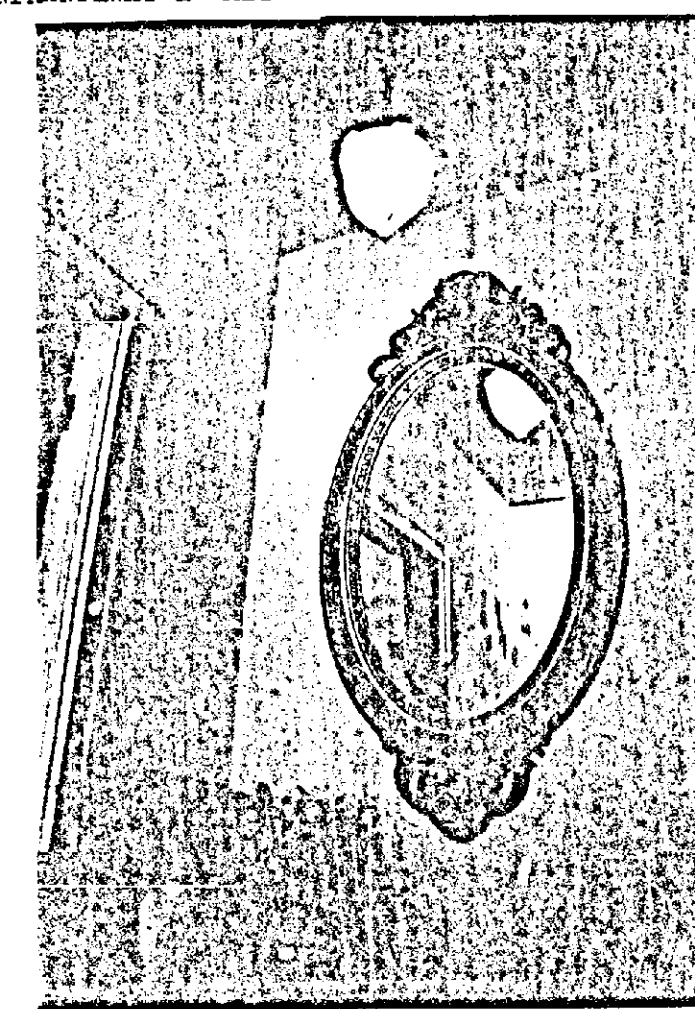
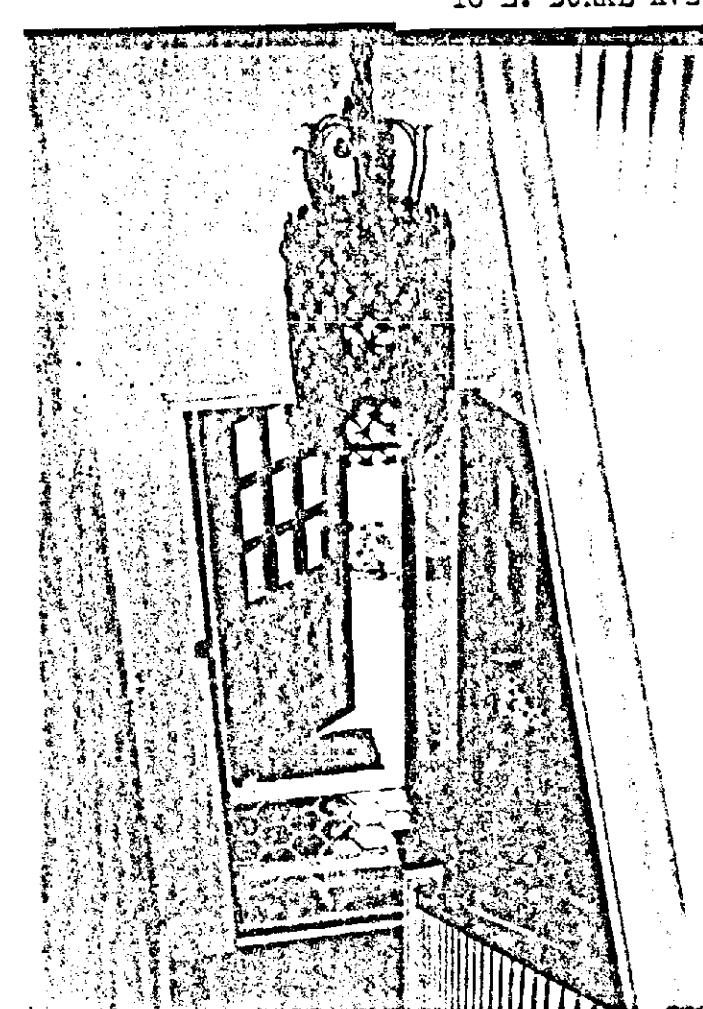




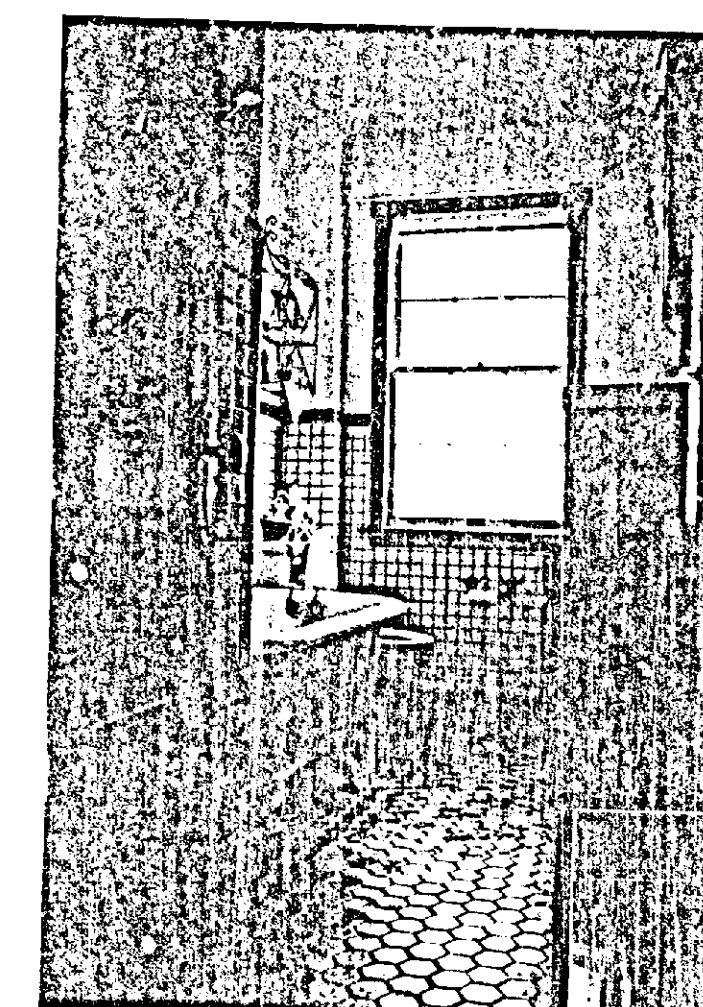
10 E. BURKE AVE.
TOWNSHIP
KITCHEN
first floor



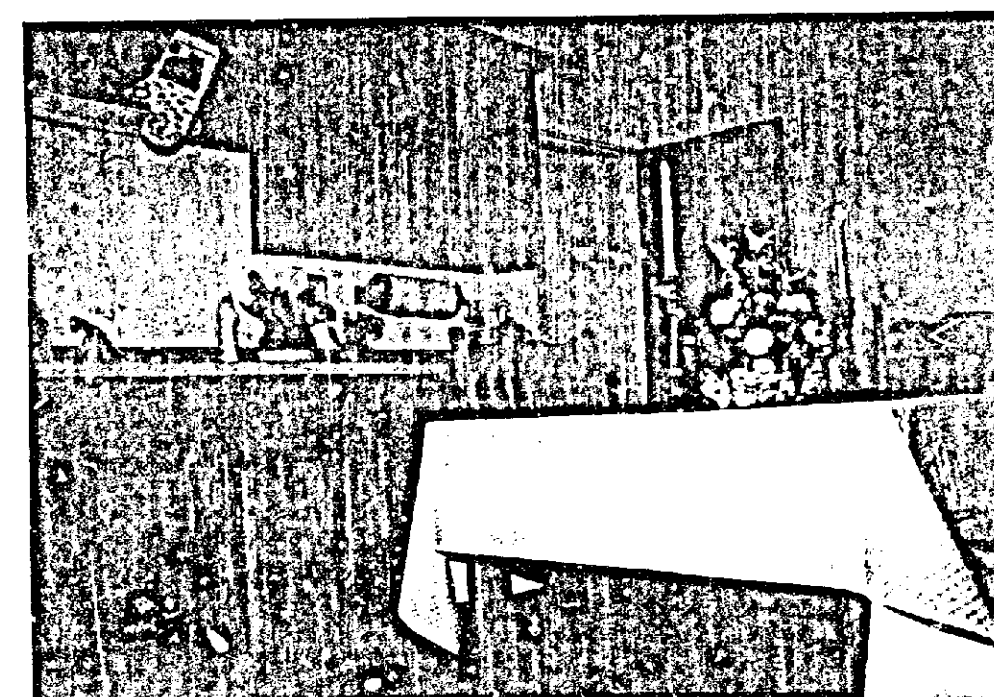
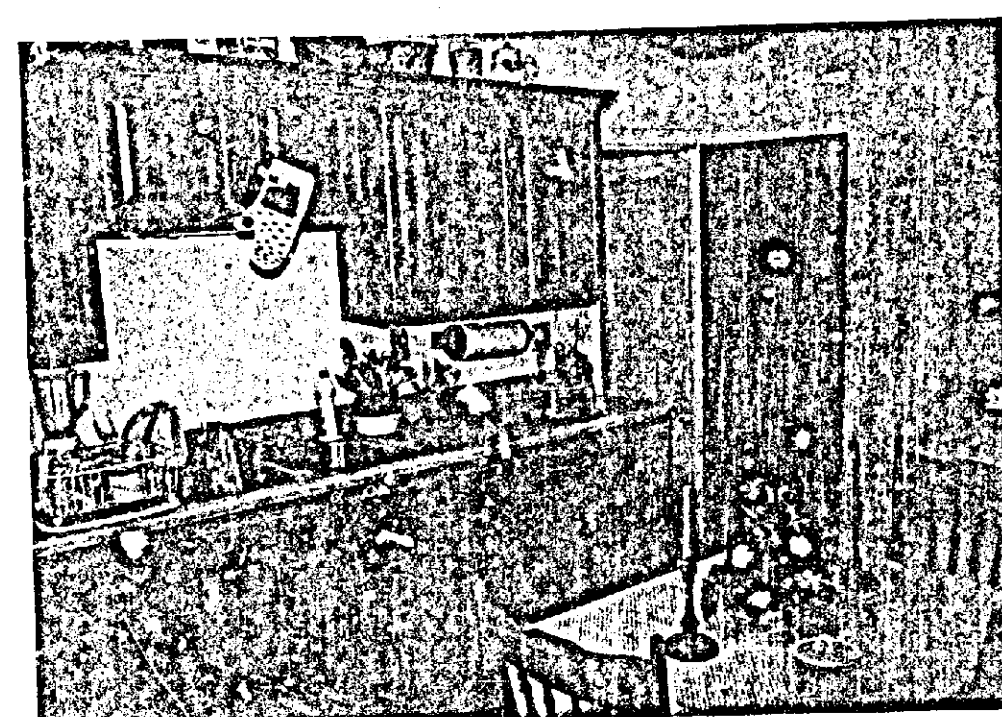
10 E. BURKE AVE. ENTRANCE HALL



10 E. BURKE AVE.
TOWNSHIP
LIBRARY
second floor

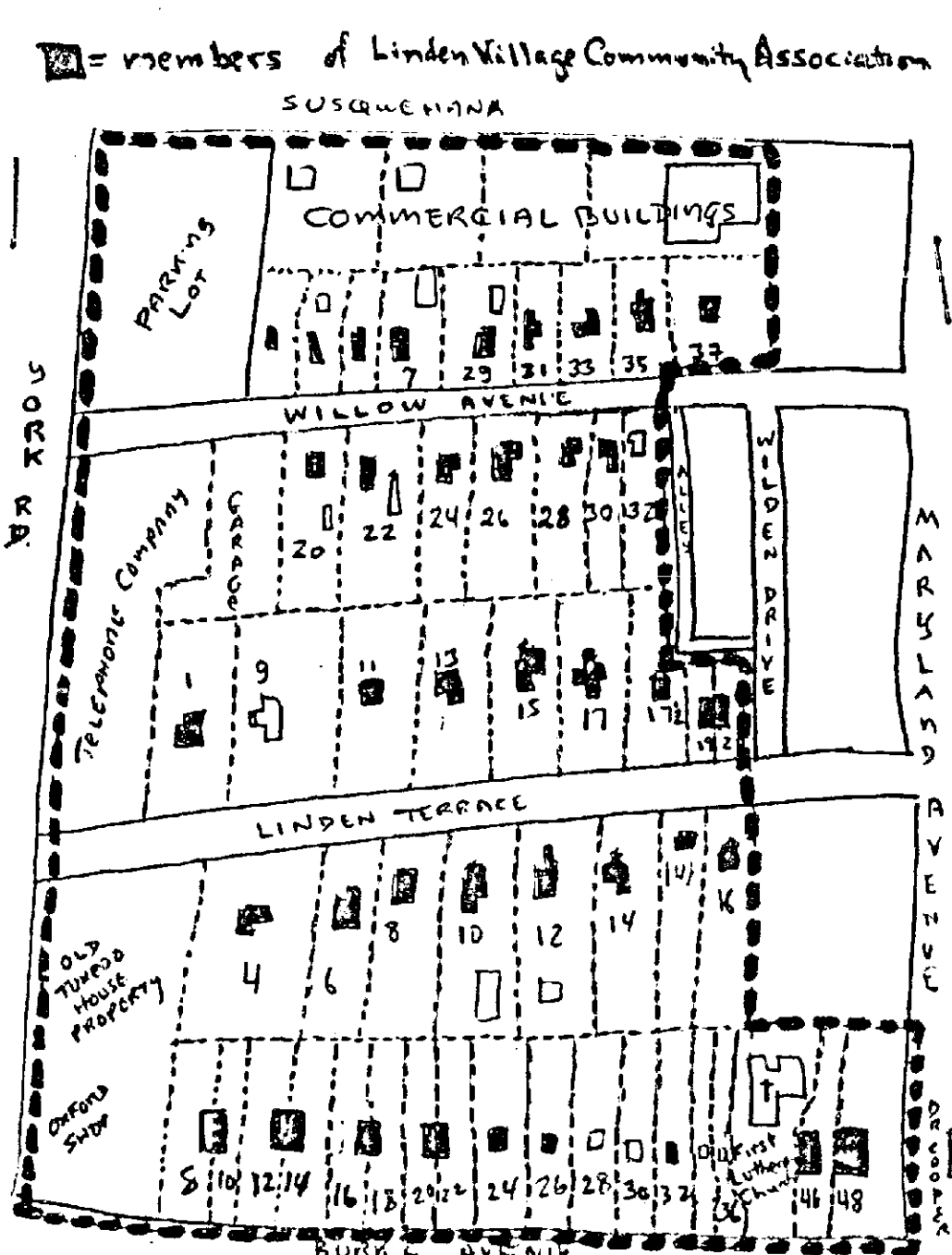


10 E. BURKE AVE.
TOWNSHIP
Bathroom,
second floor



10 E. BURKE AVE.
TOWNSHIP
Kitchen-at the
moment without
appliances.
second floor

Linden Village Community Association Membership



Map of the boundaries of the
Linden Village Community Association, Township

NOTE: Map is drawn for approximate locations only.

Re: Baltimore County Zoning
Case #86-481-A
Petition for Zoning Variance
N/S of East Burke Ave.
299' E. of York Rd.
(10 East Burke Ave.)
9th Election District
William H. Mathews, Petitioner

May 5th, 1986

PETITIONER'S EXHIBIT 3

SUPPORT OF SURROUNDING NEIGHBORS FOR PERMISSION
TO HAVE MORE THAN ONE APARTMENT AT #10 E. BURKE AVE.

Dear Zoning Commissioner,

Because the building known as 10 E. Burke Ave., Township, Maryland 21204, lies in the high density DR-16 zone and because the 10 E. Burke Ave. duplex building is located immediately adjacent to the new zone reclassified by Baltimore County, upgrading it (the 10 York Rd. property) to RH-OS-1 status which will permit the construction this spring of a 90 foot high, five storey high commercial building and because there are already so many other existing houses containing apartments in this community we have NO OBJECTIONS TO THE ZONING VARIANCES REQUESTED FOR THE 10 E. BURKE AVE. PROPERTY which would permit more than one apartment on the premises as requested by the petitioner. We feel that to deny such a variance would present the petitioner undue hardship and practical difficulty and thus would be unfair.

Signed: David E. Kelley
Printed Name: David E. Kelley
Residing at: 1 Burke Ave
NEIGHBORHOOD: Burke Square

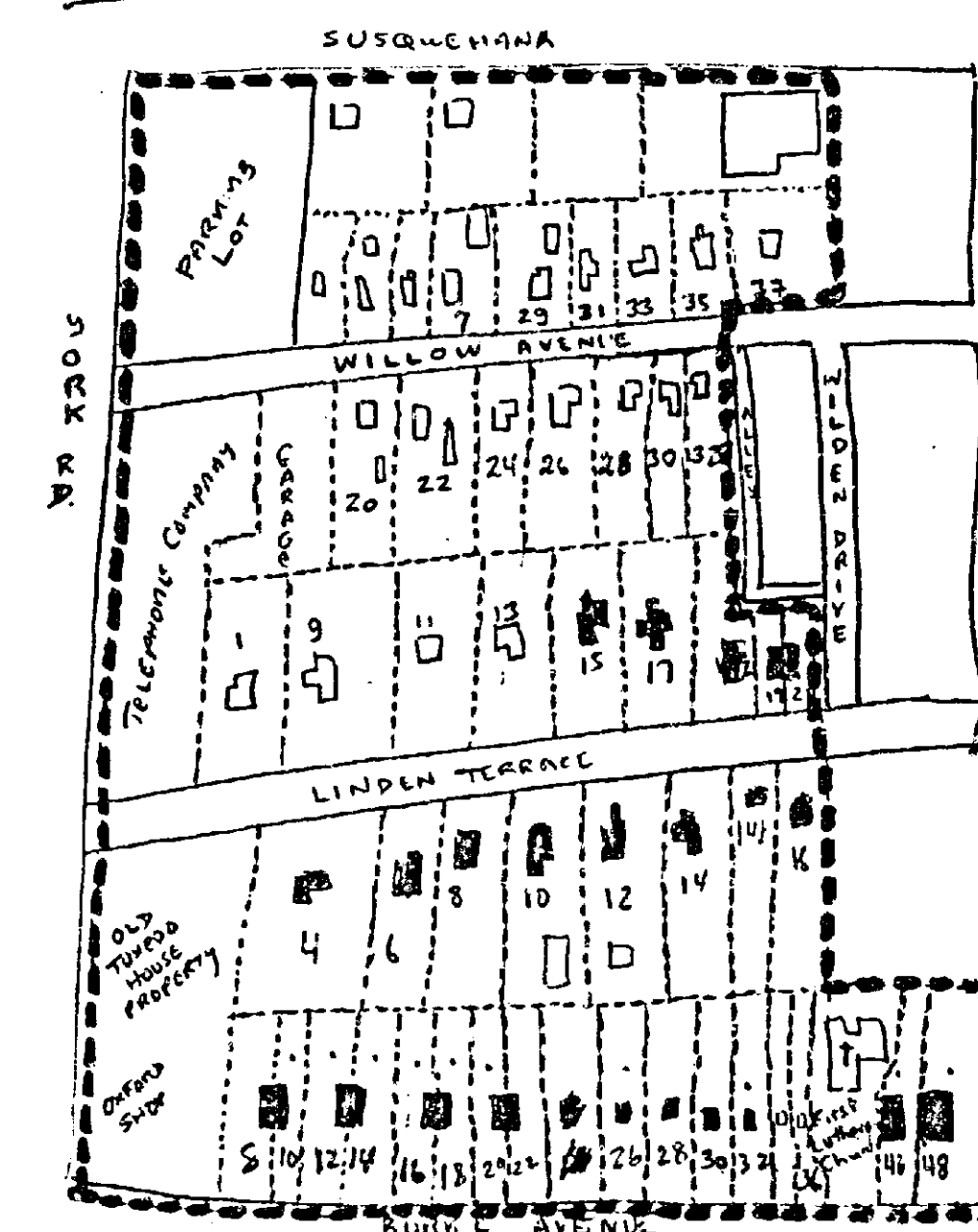
SEAL

Sworn and Subscribed & before me this 20th day of May, 1986

My Commission Expires:
7/1/86

Kari K. Tranter
NOTARY PUBLIC

SURROUNDING
MAP SHOWING SUPPORT OF NEIGHBORS FOR
VARIANCES REQUESTED FOR 10 E. BURKE AVE IN
CASE #86-481-A MAY 28 '86



Map of the boundaries of the
Linden Village Community Association, Township

NOTE: Map is drawn for approximate locations only.

Linden Village Community Association

Box 5501
Towson, Md. 21204

May 15, 1986

To:
The Zoning Commissioner
Baltimore County, Maryland

Dear Zoning Commissioner,

We the Linden Village Community Association would like to inform you of a resolution adopted at the May 15th meeting of the Board of Directors of Linden Village Community Association:

"Be it resolved by the Linden Village Community Association that the Board of Directors, having been empowered with the responsibility for review and action on all zoning matters concerning our association, hereby goes on record that it is in support of the requested variances to enable Mr. Mathews, the petitioner, in Zoning Case 86-481-A, to have more than one apartment in his DM-16 zoned property at 10 East Burke Ave., Towson. This association respectfully submits that an undue hardship or practical difficulty would result if the variances are not granted.

Respectfully yours,

Frank Aurlington
Frank Aurlington,
Vice-President of the Linden Village
Community Association
(Residing at 19 Linden Terrace, Towson)

Collier Conklin
Collier Conklin,
President of the Linden Village Community
Association
(Residing at 22 E. Burke Ave., Towson)

Jon P. Winand
Jon P. Winand,
Secretary of the Linden Village
Community Association
(Residing at 48 E. Burke Ave., Towson)

Nancy Gabell
Nancy Gabell,
Treasurer of the Linden Village Community
Association
(Residing at 16 Linden Terrace, Towson)

Sworn and Subscribed to before me this 15th day of May, 1986.

My Commission Expires:
7/1/86

Karen K. Trumbler
NOTARY PUBLIC

Linden Village Community Association

Box 5501
Towson, Md. 21214

May 15, 1986

To:
The Zoning Commissioner
Baltimore County, Maryland

Dear Zoning Commissioner,

As president of the Linden Village Community Association and as a member of its Board of Directors, I would like to testify at this time on behalf of our Board of Directors and our Association that when Mr. William E. Mathews who owns the property known as number 10 E. Burke Ave. purchased the property in August 1984 that property had been a blight on the neighborhood, a fire hazard, rundown and neglected both on the inside and outside of the building for many years due to the poor health of its formerly elderly owner. Mr. Mathews has worked industriously for over a year, constantly fixing up the property and meticulously restoring it back to its former Victorian grandeur both on the inside and the outside of the building. We frankly need more neighbors like Mr. Mathews to improve the appearance of our neighborhood and have no objection whatsoever to his request for the necessary variances and setbacks to enable him to have more than one apartment in the building, especially since his property lies within the DM-16 apartment zone.

Most of the residents of our community are grateful to Mr. Mathews to have him make such a beautiful improvement to our neighborhood by the work he has done and feel that to deny him the variances he needs to enable him to have the financial support he must have to continue to beautify his property would be unfair and unjust and would present to him undue hardship and practical difficulty especially in lieu of the fact that there are so many other adjoining and surrounding buildings with apartments in our neighborhood due to their location right off York Rd. in downtown Towson and especially due to the fact that a five storey, 90 feet high commercial building is to be built next door to Mr. Mathews at number 40 York Rd. this summer.

Respectfully yours,

Collier Conklin
Collier Conklin,
President of the Linden Village Community
Association

Sworn and Subscribed to before me this 15th day of May, 1986.

My Commission Expires:
7/1/86

Karen K. Trumbler
NOTARY PUBLIC

Linden Village Community Association

Box 5501
Towson, Md. 21214

May 15, 1986

To: Whomever it might concern
and to
The Zoning Commissioner of Baltimore County

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 15th day of May, 1986, personally appeared Collier Conklin before the undersigned, a NOTARY PUBLIC in and for the County and State aforesaid, and he made oath in due form of law that he is currently a duly elected member of the Board of Directors of the Linden Village Community Association.

ATTEST:

Sworn and Subscribed to before me this 15th day of May, 1986.

My Commission Expires:
7/1/86

Karen K. Trumbler
NOTARY PUBLIC

ARNOLD JACOBSON, ZONING COMMISSIONER
BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204

Protestant's Exhibit 1a-1d



BURKLEIGH SQUARE COMMUNITY ASSOCIATION

P. O. BOX 6713
TOWSON, MARYLAND 21204

April 8, 1986

Dear Sir:

This is to advise that the following individuals are currently duly elected members of the Board of Directors of this Association, and as such each is authorized to testify on behalf of the Board on all zoning matters affecting the interests of this Association.

The current Board of Directors members are:

President	Michele Zahorchak
Vice-president	Gary Bachtell
Treasurer	Jo Anne Bauer
Secretary	Carol Lynch
Committees:	
Hospitality	Helen Smith
Garden	Pete Southard, Bob Lovell
Legislative	Shannon Powers
Playground	Jane Bachtell
Street representatives:	
Burke Ave. 1-25	John Frederick
Burke Ave. 27-69	Steve Foster
Burke Ave. 8-48	Charlie Powers
E. Burleigh Rd.	Annmarie Mayer
W. Burleigh Rd.	Betty Allen
E. Burleigh Rd.	Nancy McKee
W. Burleigh Rd.	Joyce Zink
Normal Terrace	Greg Bauer

The current membership is 78.

The community boundaries are: York Road to the west, Maryland Avenue to the east, Burke Avenue to the north, and Algburth Road to the south.

Carol Lynch
Secretary

Michele Zahorchak
President
Susan J. Dine
Notary Public
MY COMMISSION EXPIRES JULY 1, 1986

BURKLEIGH SQUARE COMMUNITY ASSOCIATION

P. O. BOX 6713
TOWSON, MARYLAND 21204

September 17, 1985

THE ANNUAL ZONING AUTHORIZATION

Be it resolved that upon vote taken this date at the annual meeting of the Association, the Board of Directors of the Burleigh Square Community Association is hereby authorized for the forthcoming year to take full responsibility for review and action on all zoning matters in any way affecting the interests of the Association.

Carol Lynch
Secretary

Michele Zahorchak
President

Susan J. Dine
Notary Public
MY COMMISSION EXPIRES JULY 1, 1986

BURKLEIGH SQUARE COMMUNITY ASSOCIATION

P. O. BOX 6713
TOWSON, MARYLAND 21204

Date MAY 27, 86

Dear Sir,

The Burleigh Square Community Association Board of Directors, acting on behalf of its members, takes the following position: opposed to zoning variances to allow 2 apartments

regarding the property at 10 BURKE AVE. TOWSON 21204

Carol Lynch
Secretary

Michele Zahorchak
President

Susan J. Dine
Notary Public
MY COMMISSION EXPIRES JULY 1, 1986

John C. Frederick
5 East Burke Ave
Towson Md

Helen Bowman
2 York Road
Towson Md 21204

William Bowman
2 York Road 21204

Leo B. Rich
20 Burke Ave
Towson, Md 21204

J. Yarchin
704 Nitz Ave
Towson, MD. 21204

Sharon Powers
34 Burke Ave
Towson, Md. 21204

PROTESTANT'S
EXHIBIT 3