

PETITION FOR ZONING VARIANCE 88-261-A

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, hereby petition for a Variance from Section 1B02.3C.1. To permit side yard setbacks of 3 feet and 5 feet in lieu of the required 10 feet, each.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)
 Lot is 40 feet wide along Lincoln Avenue in Luthersville, 8th Election District, with a varying depth of 145.19 feet to 123.43 feet. Property presently improved with a dilapidated dwelling. Lot in question is actually two contiguous lots from an early plat which are presently surrounded by improved parcels. In order to remove dilapidated structure and replace it with a modern structure, it will require side yard widths of less than 10 feet. Present structure does not conform with 1B02.3C.1. Conformity with Section will substantially hinder or prevent construction of new dwelling.

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: NONE
 Legal Owner(s): LAWRENCE BENTON
 Signature: Lawrence Benton
 Address: 202 1/2 Lincoln Avenue, Baltimore, Maryland 21210
 City and State: Baltimore, Maryland
 Attorney for Petitioner: ROBERT A. MCFARLAND
 Address: 21 W. Susquehanna Avenue, Towson, Maryland 21204
 City and State: Towson, Maryland
 Attorney's Telephone No.: 823/1250
 Address: 21 W. Susquehanna Ave., Towson, Maryland 21204

ORDERED By The Zoning Commissioner of Baltimore County, this 12th day of January, 1988, 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 held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 19th day of January, 1988, at 9 o'clock A.M.
 J. Robert Haines
 Zoning Commissioner of Baltimore County.

M & H DEVELOPMENT ENGINEERS, INC.
 200 East Joppa Road, Room 101, Shell Building, Towson, Maryland 21204
 (301) 828-9060
 Columbia Office (301) 730-9060

DESCRIPTION FOR SIDE YARD VARIANCES FOR #202-202 1/2 LINCOLN AVENUE, 8TH ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND.
 Beginning for the same at a point distant N 64° 00' W 42 feet 3 from the intersections formed by the center line of Bellona Avenue (30' right a way) and the Lincoln Avenue (40' R/W) thence binding in on near the center line of said Lincoln Avenue, N 64° 00' W 40.97 feet thence leaving said Avenue N 27° 47' E 145.17 feet thence S 31° 09' E 40.0' thence S 24° 40' E 123.43 feet to the Place of beginning. Containing 0.12 acres



Malcolm E. Hudkins
 Registered Surveyor #5095

IN RE: PETITION FOR ZONING VARIANCE NE/S Lincoln Avenue, 42' NW of c/l of Bellona Avenue (202-202 1/2 Lincoln Avenue), 8th Election District, 4th Councilmanic District
 Lawrence Benton Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a zoning variance to permit side yard setbacks of 3 feet and 5 feet in lieu of the required 10 feet each, as more particularly described on Petitioner's Exhibit 1.

The Petitioner appeared and was represented by Counsel. Also appearing on behalf of the Petition was Vince Moskunas, an engineer with M & H Development, and John Q. Smith, one of the adjoining neighbors. There were no Protestants.

Testimony indicated that the subject property, zoned D.R. 5.5, currently is improved with a semi-detached home known as 202 and 202 1/2 Lincoln Avenue. Mr. Benton testified that he acquired the property approximately 6 months ago from his brother who had owned the property for 10 years. Petitioner further testified that the property has not been lived in for approximately 4 years due to the fact that the existing improvements are dilapidated and uninhabitable. The Petitioner proposes razing the existing dwelling and garage and constructing a new home. Petitioner introduced as Petitioner's Exhibit 3 a plan of the proposed home he is planning to build on the property if the requested variances are granted. The lot is only 40 feet wide. Mr. Benton testified that he chose this particular home as it was in conformance with other homes in the neighborhood and one of the smallest floor plans he was able to locate that was not offensive in design. In support of his position that the proposed dwelling is in conformance with the existing neighborhood, he introduced a picture marked Petitioner's Exhibit 4 of other homes in the area. The Petitioner argued that to require strict compliance with the Baltimore County Zoning Regulations (B.C.Z.R.) would not enable him to build a home of adequate size and in conformance with other homes in the neighborhood.

Mr. Smith, an adjoining neighbor at 200 Lincoln Avenue, indicated that he was in favor of Petitioner's request and felt that the proposal would improve the neighborhood.
 Petitioner seeks a variance from Section 1B02.3C1, pursuant to Section 307 of the B.C.Z.R.
 An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973).

Based upon the testimony and evidence presented, in the opinion of the Deputy Zoning Commissioner, it is clear that a practical difficulty or unreasonable hardship would result if the variances were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertising, posting of the property, and public hearing on this Petition held, and for the reasons stated above, the variances requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 12th day of January, 1988 that side yard setbacks of 3 feet and 5 feet in lieu of the required 10 feet each, in accordance with Petitioner's Exhibit 1, be approved, and as such, the Petition for Zoning Variance is hereby GRANTED, subject, however, to the following restrictions:

ORDER RECEIVED FOR FILING
 By: [Signature]

ORDER RECEIVED FOR FILING
 By: [Signature]

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

ANN M. NASTAROWICZ
 Deputy Zoning Commissioner
 of Baltimore County

ORDER RECEIVED FOR FILING
 By: [Signature]

January 25, 1988

Robert A. McFarland, Esquire
 21 W. Susquehanna Avenue
 Towson, Maryland 21204

RE: Petition for Zoning Variance NE/S Lincoln Avenue, 42' NW of c/l of Bellona Avenue (202-202 1/2 Lincoln Avenue), 8th Election District, 4th Councilmanic District
 Lawrence Benton - Petitioner
 Case No. 88-261-A

Dear Mr. McFarland:
 Enclosed please find the decision rendered on the above-referenced case. The Petition for Zoning Variance has been Granted, subject to the restriction noted in the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal to the County Board of Appeals. For further information on filing an appeal, please contact this office.

Very truly yours,
 ANN M. NASTAROWICZ
 Deputy Zoning Commissioner
 of Baltimore County

Enclosures
 ccc: Mr. Vince Moskunas
 M & H Development Engineers, Inc.
 200 East Joppa Road, Rm. 101 Shell Building, Towson, Md. 21204
 People's Counsel
 File

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified below in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance NE/S Lincoln Avenue, 42' NW of c/l of Bellona Avenue (202-202 1/2 Lincoln Avenue)
 Lawrence Benton - Petitioner
 8th Election District - 4th Councilmanic District
 Case number: 88-261-A

DATE/TIME: Tuesday, January 19, 1988 at 9:00 a.m.
 Petition for Zoning Variance to permit side yard setbacks of 3 feet and 5 feet in lieu of the required 10 feet each.

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

BALTIMORE COUNTY, MARYLAND No. 41609
 OFFICE OF FINANCE - REVENUE DIVISION
 MISCELLANEOUS CASH RECEIPT
 DATE: 1/19/88 ACCOUNT: 01-115-000
 AMOUNT: \$ 25.00
 RECEIVED FROM: [Signature]
 FOR: [Signature]
 VALIDATION OR SIGNATURE OF CASHIER

Baltimore County
 Zoning Commissioner
 Office of Planning & Zoning
 Towson, Maryland 21204
 484 3333
 J. Robert Haines
 Zoning Commissioner
 November 19, 1987

Robert A. McFarland, Esq.
 21 W. Susquehanna Avenue
 Towson, Maryland 21204

RE: Petition for Zoning Variance NE/S Lincoln Avenue, 42' NW of c/l of Bellona Avenue (202-202 1/2 Lincoln Avenue)
 Lawrence Benton - Petitioner
 8th Election District - 4th Councilmanic District
 Case number: 88-261-A

Dear Mr. McFarland:
 Please be advised that \$94.14 is due for advertising and posting of the above-referenced property. All advertising and posting fees must be paid prior to the hearing. Do not remove the sign from the property until the time it is posted by this office until the day of the hearing itself.

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

BALTIMORE COUNTY, MARYLAND No. 45901
 OFFICE OF FINANCE - REVENUE DIVISION
 MISCELLANEOUS CASH RECEIPT
 DATE: 1/19/88 ACCOUNT: 01-115-000
 AMOUNT: \$ 94.14
 RECEIVED FROM: [Signature]
 FOR: [Signature]
 VALIDATION OR SIGNATURE OF CASHIER

Baltimore County
Fire Department
Townson, Maryland 21204-2586
494-4530

Paul H. Reincke
Chief

October 16, 1987

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Townson, MD 21204



Dennis F. Rasmussen
County Executive

Re: Property Owner: Lawrence Benton

Location: NE/S Lincoln Avenue 42' NW of c/l of Bellona Avenue

Item No.: 111

Zoning Agenda: Meeting of 10/6/87

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 or _____ 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: *Ch. H. [Signature]* 10-16-87
Special Inspection Division

Noted and Approved:

John F. O'Neill
Fire Prevention Bureau

/s/

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. J. Robert Haines
TO: Zoning Commissioner
Date: November 3, 1987
Norman E. Gerber, AICP
FROM: DIRECTOR OF PLANNING AND ZONING
Zoning Petitions No. 88-260-A, 88-261-A,
SUBJECT: 88-263-A, 88-264-A, 88-271-A

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

Norman E. Gerber
Norman E. Gerber, AICP
Director

NEG:JGH:dme

cc: Ms. Shirley M. Hess, Legal Assistant, People's Counsel
File

CPS-000

PETITIONER(S) EXHIBIT 4



BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL
PROTECTION AND RESOURCE MANAGEMENT

10/5/87
Date

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

Zoning Item # 111, Zoning Advisory Committee Meeting of October 4, 1987

Property Owner: Lawrence Benton

Location: NE/S Lincoln Ave. 42' NW of centerline of Bellona District 3

Water Supply: meter Sewage Disposal: meter

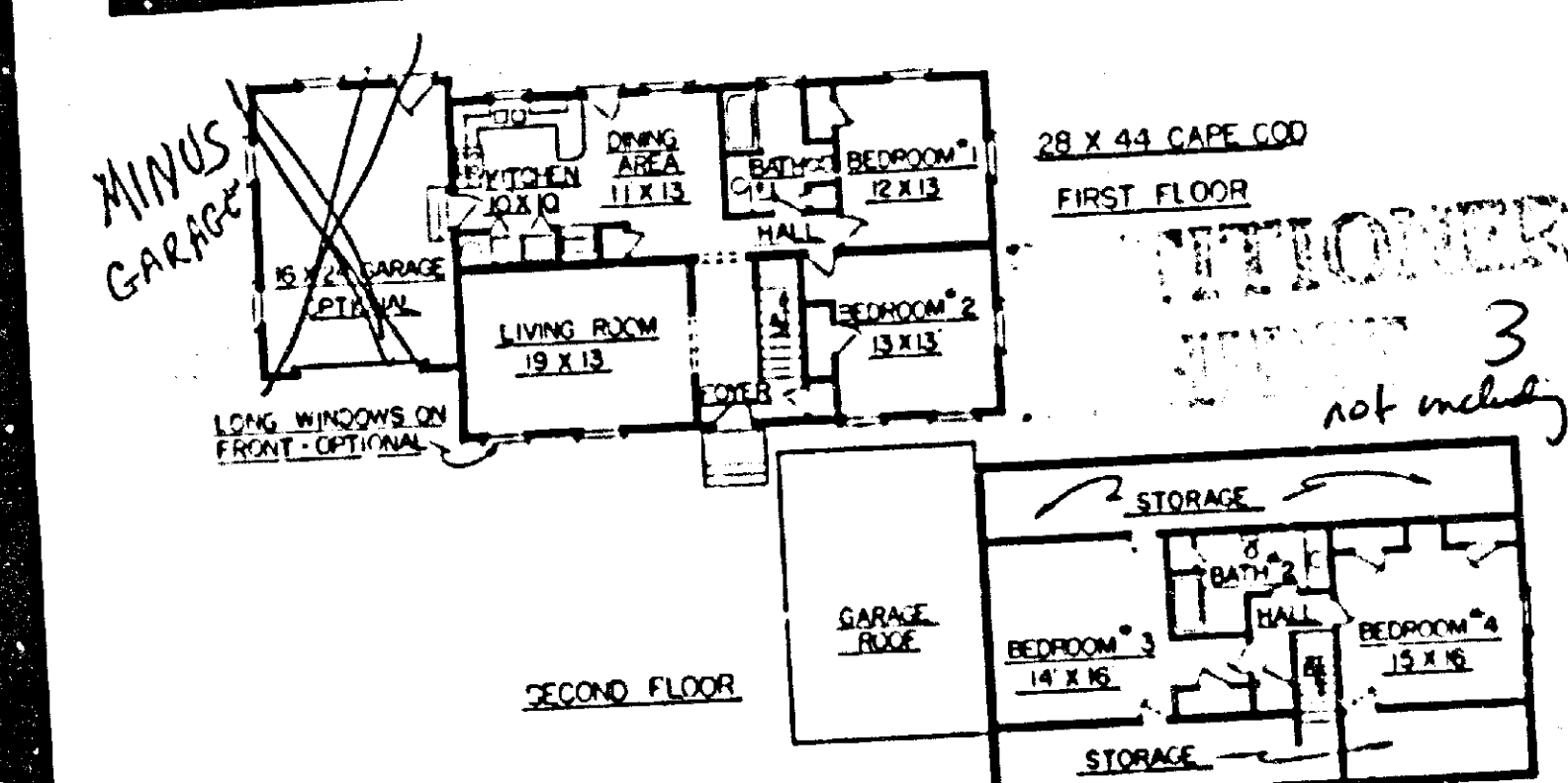
COMMENTS ARE AS FOLLOWS:

- () 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, Bureau of Regional Community Services, for final review and approval.
- () Prior to new installation of fuel burning equipment, the owner shall contact the Bureau of Air Quality Management, 494-3775, to obtain requirements for such installation before work begins.
- () A permit to construct from the Bureau of Air Quality Management is required for such items as spray paint processes, underground gasoline storage tanks (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
- () A permit to construct from the Bureau of Air Quality Management 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 renovation 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 Environmental Protection and Resource Management for review and approval. For more complete information, contact the Recreational Hygiene Section, Bureau of Regional Community Services, 494-3811.
- () 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 the State Department of the Environment.
- () Prior to raising of existing structure/s, petitioner must contact the Division of Waste Management at 494-3768, regarding removal and/or disposal of potentially hazardous materials and solid wastes. Petitioner must contact the Bureau of Air Quality Management regarding removal of asbestos, 494-3775.
- () Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and tank removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of Waste Management at 494-3768.
- () Soil percolation tests, have been _____ must be _____ conducted.
- () The results are valid until _____
- () Soil percolation test results have expired. Petitioner should contact the Division of Water and Sewer 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 _____

Russ H. Cherry

BUREAU OF WATER QUALITY AND RESOURCE
MANAGEMENT

1st Prud Cape Cod



NANTICOKE SECTIONAL HOMES

PETITIONER(S) EXHIBIT 2

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Townson, Maryland 21204
494-3534

October 15, 1987



Dennis F. Rasmussen
County Executive

Zoning Commissioner
County Office Building
Townson, Maryland 21204

Dear Zoning Commissioner:

The Bureau of Traffic Engineering has no comments for items number 523, 107, 108, 109, 110, 111, 112, 113, 116, 118, and 119.

Very truly yours,

Michael S. Flanigan

Michael S. Flanigan
Traffic Engineer

MSP:sb

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

January 12, 1988

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

Robert A. McFarland, Esquire
21 W. Susquehanna Avenue
Townson, Maryland 21204

RE: Item No. 111 - Case No. 18-261-A
Petitioner: Lawrence Benton
Petition for Zoning Variance

Dear Mr. McFarland:

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,

James E. Dyer

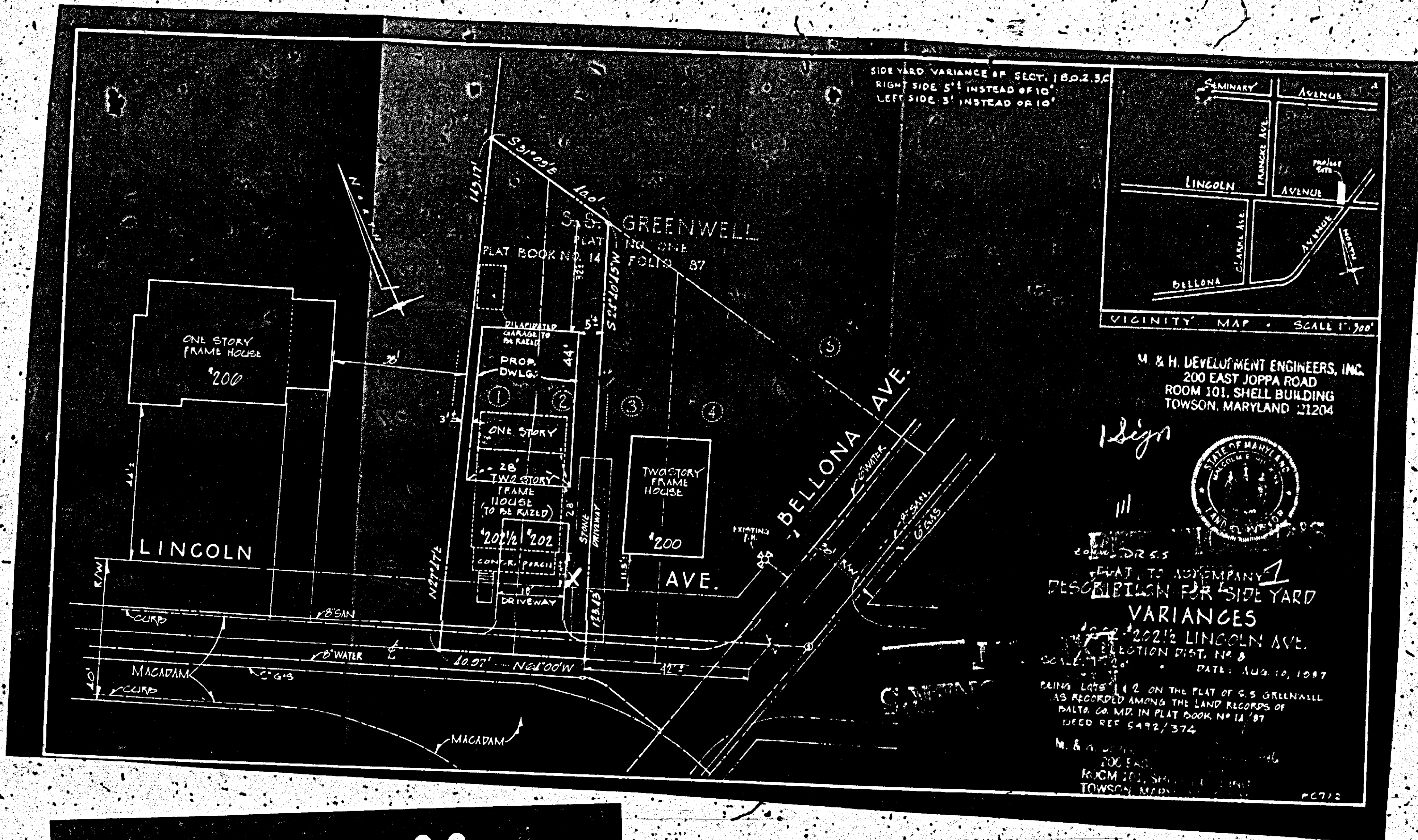
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:akb

Enclosures

cc: M&H Development Engineers, Inc.
200 East Joppa Road
Room 101, Shell Building
Townson, Maryland 21204

RECEIVED
NOV 9 1987
ZONING OFFICE



88-261-A

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
TOWSON, MARYLAND

District: 9th Date of Posting: December 31, 1987

Posted for: Variance

Petitioner: Lawrence Benton

Location of property: 222 1/2 Lincoln Ave. NW of Ch. of Bellona Ave.

Location of Sign: In front of 222 1/2 Lincoln Ave.

Remarks: _____

Posted by: J. Robert Haines Date of return: January 8, 1988

Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., Dec 30, 1987

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 Dec 30, 1987.

TOWSON TIMES,
Susan Linder Abbott
Publisher

J. ROBERT HAINES
Zoning Commissioner

6-103 Dec 87

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21284

Your petition has been received and accepted for filing this 3rd day of November, 1987.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Petitioner: Lawrence Benton received by: James E. Byer
 Attorney: Robert A. McFarland, Esquire Chairman, Zoning Plans
 Advisory Committee

CERTIFICATE OF PUBLICATION

TOWSON, MD., Dec 31, 1987

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 Dec 31, 1987.

THE JEFFERSONIAN,
Susan Linder Abbott
Publisher

J. ROBERT HAINES
Zoning Commissioner
Baltimore County
12309 Dec 31