

BEFORE  
COUNTY BOARD OF APPEALS  
OF  
BALTIMORE COUNTY  
CASE NO. 88-283-XA

This case comes before this Board on an appeal from an Order of the Zoning Commissioner denying the special exception for a child care center and denying the variance to permit two parking spaces in lieu of the required four. The case was heard the first day on July 28, 1988 and a second day on November 17, 1988.

Petitioner's first witness was Catherine Drayton, who is in charge of license coordination for the Baltimore County Department of Health Resources and Child Care. She testified that the site complied with all the Class B requirements and had approval of the Fire and Traffic Departments, and noted that the site being at the end of a dead-end street was a good site for a child care center, probably 20 to 35 children. She testified as to the need for day

Ms. Shirley Dennett, 9714 Mendoza Road, testified that she would operate the child care center for Mrs. Edwards and testified as to her qualifications to do so.

Mickey Cornelius, a traffic engineer, testified that he has done a study of this site and that he could see no adverse effect from the additional traffic from the proposed child care center. He further testified that he could foresee no safety problems from the proposed use of this site.

Anthony Cortael, Engineer, testified that he prepared the plat entered as Petitioner's Exhibit No. 2 and that it was his opinion that all the requirements of 502.1 had been complied with. This concluded Petitioner's first day of testimony.

Protestants presented Mr. Lawrence Seng, who resides at 3903 Rayton Road and who testified that the proposed use would not be compatible with the residential integrity of the neighborhood, and strongly opposed the increased traffic that would be created by this center.

Mr. Edward Dudley, 3138 Rayton Road, a next-door neighbor, testified in opposition to the proposal mainly because of the number of children involved and the potential detrimental effect from the additional traffic it would create.

It is therefore this 8th day of December, 1988 by the  
County Board of Appeals of Baltimore County ORDERED that the Special Exceptio  
for a child care center be and the same is GRANTED with the following  
restriction:

1. Agreement must be reached with Baltimore County, the State of Maryland, and any other involved governmental entities to have the barricade-type posts relocated to the east property line of 3829 Rayton Road, and that the child care center shall not operate until these posts are physically relocated.
2. The maximum number of children enrolled in the day care center shall be no more than 15 at any time on the site.

IT IS FURTHER ORDERED that the variance to permit two parking spaces in lieu of the required four be and the same is GRANTED with the restriction that the child care center use be afforded the site until the 18-foot by 18-foot parcel shown on Petitioner's Exhibit No. 8 is installed.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

William T. Hackett  
William T. Hackett, Chairman

Lawrence E. Schmidt

Arnold G. Forreman

### OPINION

OPINION

This Opinion and Order occurs as a result of a Motion by Petitioners to reconsider a condition contained in the Board's Order dated December 8, 1980 limiting the maximum number of children to no more than 15 at any time in the Class B child care center granted under a special exception. In answer thereto the Board will address only the question of the number of children permitted by the Order.

There was testimony that had the original Order permitted a much greater number of children in the home, traffic would not have been a deciding factor, and therefore the question of traffic in this Order will not be addressed.

The Board in its Order established a limit of 15 children on site at any time. Petitioner requests this number be amended to a minimum of 20 and a maximum of 35 children on site. The Board in establishing 15 as a reasonable number to be permitted leans heavily on the testimony of Mrs. Catherine Drayton, who is firmly established as an expert in the operation of child care centers. From her direct testimony in answer to the question, "How many children would you expect this facility to accommodate," she answered, "It's difficult to say without going in and measuring...or without saying how many children in certain age groups she'll have. But I anticipate the range will be 20 to 35 children."

Sylvia Johnson, 3909 Rayton Road, testified that she did not want the day care center in this residential neighborhood and that there are already ten day care centers in operation in Randallstown.

Gregory Jones, a traffic engineer for Baltimore County, testified as to the need for an off-street loading area but tendered his opinion that this could be provided on-site.

At this point, by mutual agreement, this case was continued to allow the neighbors and the County to attempt to reach agreement on the traffic and parking problems, especially those associated with the pilings implanted in the middle of Rayton Road, creating a dead-end road.

On November 17, 1988, the case was reconvened and the Board advised that the attempts to negotiate a settlement between the residents and the Petitioner had failed. Mr. Gregory Jones, traffic engineer for Baltimore County, was recalled. He presented a revised plan showing a parking pad on-site to assist the loading and unloading of children and also demonstrated the traffic pattern which would result by the relocation of the timber posts to the east property line of the subject site. It was his opinion that the addition of the parking pad would allow children to be picked up and dropped off safely and therefore the pad's addition satisfied his concerns. As to the relocation of the posts, he testified that his department was neutral in that they neither opposed nor recommended the relocation. However, he further indicated that his department would cooperate with the Maryland State Highway Department in the movement of these posts.

Protestants presented Blanche Caprillo, 3901 Rayton Road, who resides one house from the subject site. Her testimony indicated concern for the safety of the children being dropped off and picked up, and especially noted her evaluation of the traffic problems that would result during this period of time.

Upon cross-examination by People's Counsel, the question was posed, "Now, what would be your opinion the maximum number of children that the proposed use would hold?" She answered:

"I am repeating a number that comes from my file when "Fire" and I had been at the building. The program was to be limited to the first floor and some available space on the lower level, the basement level, which open out into the yard. If both those areas are in use, there's a potential for 20 to 35 children. The final number cannot be determined until the place is actually equipped for children, and then we can come up with an available space for the children to move into."

The Board will state that it takes due notice that in answer to the first question, she said, "...I anticipate..." (emphasis added). In answer to the second question, Mrs. Drayton said, "...If both these areas are in use, there's a potential for 20 to 35 children. The final number cannot be determined until the place is actually equipped for children." (emphasis added). The Board notes that the proposed day care center is an individual residence on an individual lot with a small rear yard designated as the play area. Both the building and the play area are directly abutting a neighbor on one side. It would appear reasonable that over 15 children are going to create some disturbance and have some effect on this neighbor's way of life. Even Petitioner's own witness cannot positively identify the proper number of children that should be hereto assigned. In consideration of these factors, the Board is of the opinion that the restriction to allow only 15 children on the site at any one time is appropriate and will so order.

## ORDER

It is therefore this 22nd day of March, 1989 by the  
County Board of Appeals of Baltimore County ORDERED that the Order dated

Alfred Miller, 3908 Rayton Road, objected to the proposed use because of the traffic problems involved. He further testified that all large vehicles, i.e., trash trucks, delivery trucks, school buses, etc., must back into what is known as Byers Court in order to exit Rayton Road. It was his testimony that any additional traffic would only adversely affect this turn-around process. He further testified that he was in residence there when the posts were installed in Rayton Road to prohibit through traffic through the neighborhood.

Edward Dudley, 3831 Rayton Road, the next-door neighbor, testified that the proposed parking pad was the only significant change on the site plan, and that his concerns were now greater with the parking pad and the potential problems it could create with automobiles turning around.

Lawrence E. Seng, 3902 Rayton Road, testified as to his concerns about traffic, safety for the children, and his opinion that the proposed parking pad does not alleviate any of the neighborhood's concerns. This concluded testimony in this case.

From all the testimony and evidence received, the Board has been made aware of the neighborhood's concerns regarding the Petitioner's proposal for the day care center. The Board will also duly note that all the expert testimony received indicates that no substantial damage of any kind would result from the granting of the petition. A day care center by way of a special exception is a permitted use in this zone if all the requirements of §602.1 have been complied with. It is the opinion of this Board that these requirements have been complied with and that the special exception shall be granted subject to restrictions designed to provide the Petitioner with the desired day care center and at the same time protect the residential atmosphere of the neighborhood and will so order.

December 8, 1988 by the Board of Appeals of Baltimore County be and the same is AFFIRMED in its entirety.

Any appeal from this decision must be made in accordance with Rules E-1 through E-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

OF BALTIMORE COUNTY:

William T. Hackett  
William T. Hackett, Chair

*[Handwritten signature]*

Lawrence E. Schmidt

*Ch. 1*

Arnold G. Foreman

IN RE: PETITION FOR SPECIAL EXCEPTION \*  
AND VARIANCE \*  
S/E cor. Rayton Rd. and Kings \*  
Point Road (3829 Rayton Road \*  
2nd Election District \*  
2nd Councilmanic District \*  
Gertrude J. Edwards \*  
Petitioner \*

BEFORE THE  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
Case No. 88-283XA

\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a Special Exception for a Class B Group Child Care Center in accordance with Section 424.5 and an interpretation regarding applicability of R.T.A. requirements and a request for a variance to permit two parking spaces in lieu of the required four parking spaces.

The Petitioner, represented by counsel, was present and testified. She was supported in her testimony by Mr. Taylor, Ms. Bennett, Ms. Drayton, representing the Baltimore County Department of Health, Chief of Child Day Care, and Mr. Cortea, her Engineer/Architect.

There were fourteen Protestants present at the hearing. They were not represented by counsel. However, two members of the group represented the neighborhood. The following Protestants testified: Messrs. Seng, Capriolo, Bustos and Dalley.

The Petitioner's testimony, clearly, establishes that it is her intention to establish a Class B, Group Child Care Center on the subject property for forty (40) or less children on a Monday thru Friday basis. Typical operations will be from approximately 7:00 A.M. to 6:00 P.M. and will not include weekends or recognized Federal holidays. It is her intention to have six (6) employees, two on a full time basis and four part time employees. The Center

will be primarily managed by Ms. Bennett who is also a supporting witness for the Petitioner.

The site is currently zoned D.R. 5.5, with a small portion of the rear yard zoned BL-C.C.C. The site consists of approximately 7,029 sq. ft. or .16 of an acre. Subject property is commonly referred to as No. 3829 Rayton Road. The subject property is currently improved with a two-story frame dwelling house with a front brick veneer. There is an off-site parking pad to accommodate two vehicles. There is also a concrete patio in the rear of the property and the property is currently fenced in the rear yard portion.

The subject property is immediately adjacent to the Petitioner's home. Her home is located at 3827 Rayton Road. The Petitioner's home property would be considered the southeastern corner lot of Kingspoint Road and Rayton Road. However, Rayton Road is closed to thru access at a point immediately in front of the Petitioner's home dwelling. The large majority of the Protestants live on Rayton Road. They are the most affected adjacent residential property owners.

The Petitioner testified that it is her intention to operate a full service educationally oriented Day Care Center on the subject property in conjunction with Ms. Bennett. Ms. Bennett testified to her qualifications in the child care field and a copy of her resume has been accepted as Petitioner's Exhibit 5. Testimony indicates that the presently existing two-story dwelling unit would not be altered as to its outside appearance in order to accommodate the Class B Group Child Care Facility. The Petitioner testified that she has been planning to open this Day Care Facility since 1985 when she purchased the subject property. The Petitioner has submitted a Petition signed by individuals interested in using the facilities of her Day Care Center. Petition has been accepted as Petitioner's Exhibit 4.

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The Petitioner's testimony also indicates that this project has been reviewed by the Baltimore County Fire Department and they are in agreement that the location would be acceptable. The Petitioner believes that there is adequate street side parking to accommodate this project. She stated that Rayton Road is closed in front of her home and that thru traffic is prevented by the pilings in Rayton Road. Petitioner is only providing two off-street parking places where four (4) would be required by the Baltimore County Zoning Regulations (B.C.Z.R.) The requested variance has been reviewed in light of the testimony provided by the Petitioner, Petitioner's witnesses and the Protestants.

Ms. Bennett indicates that she will be the Director of the Center and that she will be primarily responsible for the daily operations of the Center. She testified that she has extensive experience in the operation of Day Care Centers and has been active in the preparation and writing of Child Development Programs for Centers such as this one. Ms. Bennett testified that in her opinion the requirements of Section 502.1 of the B.C.Z.R. have been complied with or would be complied with by this development. She stated that she saw no problems that could be created by the Class B, Day Care Center. She indicated that there would be no problems from the variance for the parking spaces.

The testimony of Ms. Drayton of the Baltimore County Department of Health indicates that it is her responsibility to license Day Care Centers in Baltimore County. In her expert opinion, this Class B, Day Care Center would be appropriately operated and is definitely needed in the greater Randallstown area. She testified that she had reviewed the subject property and that it was more than suitable for the type of Day Care operation planned by the Petitioner. She stated that she was not qualified to speak to any traffic issues and/or parking questions. She did indicate that the location of this

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Center would be acceptable from a Baltimore County Department of Health Review as to child safety for ingress and egress from vehicles arriving at the proposed Day Care Center location.

The expert testimony of Mr. Cortea, as a land planner/engineer, indicates that all the prerequisites of Section 502.1 of the B.C.Z.R. have been or would be complied with of the granting of this Special Exception for this project on this particular site. He also testified that the prerequisites found in Section 307 are complied with by the request for two off-street parking spaces in lieu of the required four.

Mr. Cortea testified that, in his opinion, he found no reasons to believe that there would be any adverse traffic conditions created above and beyond those normally associated with a Special Exception Day Care establishment in a residential zone. He indicated that he believed that it was advantageous to have this Day Care Center located so near to a thru street such as Kingspoint Road. However, very near the intersection of a closed cross street which would provide reduced thru traffic and facilitate better distribution of the children to the Center and away from the more heavily traveled portions of Kingspoint Road and/or Liberty Road. He also testified that no traffic studies had been done nor had a specific study of Rayton Road been done to determine whether or not Rayton Road can adequately handle the increased traffic from a Day Care Center of approximately forty (40) children.

Mr. Bustos testified for the Protestants that there is not enough parking for the Day Care Center and that the street, Rayton Road, is not large enough to handle the traffic. He stated he did not believe a Day Care Center should be located in the residential zone. He felt that the zoning office was not protecting the community properly. He also said the streets were not large enough to handle fire and police equipment. The children in the Day Care

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Center will be very much at risk. He does not want a business in the community and stated it should be placed in the shopping center.

Mr. Dalley testified for the Protestants and he agreed with Mr. Bustos' testimony. Furthermore, he believes the safety of the children in the area will be harmed by all the traffic. He fears for his children. He also does not want a business next door. He stated he moved to the community to get away from busy streets and business-like communities.

Mr. Capriola stated he was testifying for the Protestants. He said that the business of a Day Care Center is wrong for a residential community. He believed the Day Care Center would be no more than six (6) children. He testified to the narrow street, traffic problems now, no passing on the street, safety problems and the beginning of the commercialization of Rayton Road. He believes this commercial operation will make the area's criminal problems worse. He said the children will not be from the area, but from all over Western Baltimore County. All of the Protestants agree that the Class B Day Care Center is wrong for this community and on this street.

A Petitioner was presented by Mr. Seng and accepted as Protestants Exhibit 1. Mr. Seng testified that he agrees with all of the other witnesses for the opposition. Additionally, he stated that he believes this Class B Day Care Center is a rezoning Petition and it will lead to more crime in the area. He wants no business opened in the residential community.

The direct comment from the Baltimore County Department of Public Works, Bureau of Traffic Engineering, states the site should have a safe off-street loading area for the children and that the parking variance will cause a parking problem. These problems were addressed by the Petitioners and Protestants.

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A great deal of testimony has been presented concerning the correctness of placing a Class B Group Child Care Center on this residential zoned property. Section 424 of the B.C.Z.R., clearly, states that group child care centers are permitted in all zones.

Section 424.1.A. requires that the group child care center be registered, licensed, or certified. The Petitioner's center has met the requirements for licensing. The testimony of Ms. Drayton of the Baltimore County Department of Health establishes this fact.

Section 424.1.B. requires the Petitioner to fence the outdoor play space abutting residential property and to provide one off-street parking space per employee. The property will be fenced and the issue of parking is addressed by the requested Petition for Zoning Variance.

Section 424.1.C. requires that the new group child care home not be located next to an already existing group child care home. The evidence, clearly, establishes that this would be the only group child care home located on Rayton Road.

Section 424.5.A, clearly, states that a Class B Group Child Care Center is permitted in all D.R. zones, pursuant to a Special Exception. The Petitioner is requesting a Class B, Group Child Care Center on property zoned D.R. 5.5/BL-CCC. The Petitioner has filed this Petition for Special Exception to allow the Class B, Group Child Care Center.

The issue, therefore, is whether or not the Petitioner has met her burden under Section 502.1 of the B.C.Z.R. Therefore, the issue raised by the Protestants that a Class B Group Child Care Center should not be allowed in a residential area has been resolved by the legislative determination found in Section 424 of the B.C.Z.R. That section, clearly, states that group child care centers are permitted in every zone. The issue is closed.

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Turning to Section 502.1, the testimony has been presented that generally the requirements are complied with. The Protestants disagree with most of the Petitioners' testimony; however, the issues raised concerning Section 502.1.d., e., f., g. h. are, clearly, complied with by this project.

The Protestants raised several issues concerning traffic, street congestion, child safety and fire protection. First and foremost, the issue of proper fire protection has been addressed by the comments of the Baltimore County Fire Department in the letter of October 19, 1987. The Petitioner also testified that the Baltimore County Fire Department had approved the site and Ms. Drayton stated that she had reviewed the project with the Fire Department and, it was acceptable.

The safety issue and the traffic issues are not as, clearly, resolved. The Protestants raise issue with the ability of Rayton Road to handle the traffic of as many as eighty-five (85) additional auto trips per day. The possible congestion on the road and the additional on-street parking are valid concerns. The lay testimony on the subject is conflicting and the only expert witness stated there had been no traffic studies done.

Clearly, the traffic issues and the congestion problems are only increased by the requested parking variance. The impact on the community and public health, safety and general welfare are greatly reduced by congested roads and unsafe traffic flow.

The evidence and testimony does not establish that the Petitioner has met her burden for a Special Exception under Sections 502.1.a. or b. The evidence does not permit a finding that the site is safe or does not congest the roads.

Pursuant to the advertisement, posting of the property, and public hearing held on this Petition, and for the reasons given above, the requested Special Exception and Variance should be denied.

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THEREFORE, IT IS ORDERED, this 17<sup>th</sup> day of March, 1988, by the Zoning Commissioner of Baltimore County, that the requests for a Class B Group Child Care Center, in accordance with Section 424.5, and for a variance to permit two parking spaces in lieu of the required four parking spaces, be and is hereby DENIED, from and after the date of this Order.

*J. Robert Haines*  
J. ROBERT HAINES  
ZONING COMMISSIONER OF  
BALTIMORE COUNTY

JRH:smn  
cc: Peoples Counsel

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# PETITION FOR SPECIAL EXCEPTION

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 Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for a class B group child care center in accordance with Section 424.5, and an interpretation regarding applicability of RTA requirements

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:  
(Type or Print Name)  
Signature  
Address  
City and State  
Attorney for Petitioner:  
Deborah C. Dopkin  
(Type or Print Name)  
Signature  
210 Allegheny Avenue  
Address  
Towson, MD 21204  
City and State  
Attorney's Telephone No.: 823-4111

Legal Owner(s):  
Gertrude J. Edwards  
(Type or Print Name)  
Signature  
(Type or Print Name)  
Signature  
Address  
City and State  
Name, address and phone number of legal owner, contract purchaser or representative to be contacted  
Deborah C. Dopkin  
Name  
823-4111  
210 Allegheny Ave. Towson, MD 21204  
Address  
Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 12th day of November, 1987, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 105, County Office Building in Towson, Baltimore County, on the 28th day of January, 1988, at 11 o'clock A.M.

*J. Robert Haines*  
Zoning Commissioner of Baltimore County.

200-50.1 (over)

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner

May 10, 1989



Dennis F. Rasmussen  
County Executive

Mrs. Gertrude J. Edwards  
3827 Rayton Road  
Randallstown, Maryland 21133  
RE: Petitions for Special Exception and Zoning Variance  
S/E Corner Rayton Road and Kings Point Road  
(3829 Rayton Road)  
2nd Election District - 2nd Councilmanic District  
Gertrude J. Edwards - Petitioner  
Case No. 88-283-XA

Dear Mrs. Edwards:  
In response to your recent attempts to gain permit approval for a Class B Child Care Center in accordance with the special exception granted in the above referenced case, the following comments are offered.

I have discussed the matter with Mr. John Lewis of this office and a thorough review of the plans submitted on May 8, 1989 revealed that certain requirements of the Commercial Checklist for permit application remain unresolved. Please be advised that prior to the issuance of any permits, the following conditions must be met:

- The site plan filed must reference Case No. 88-283-XA and set forth the conditions and restrictions contained therein. Therefore, a new site plan must be submitted which reflects this zoning history.
- Note Number 12 of said plan must reflect the reduction in the number of children permitted to attend the center from 40 to 15 in accordance with the Board of Appeals' Order issued December 8, 1988.
- The existence and location of the 18' x 18' parking pad which was the subject of a restriction in said Order must be clearly depicted on said plan.
- The title change from the Zoning Plat to Plat to accompany the building permit application.

It is my understanding that the aforementioned requirements were made known to you on your initial visit to this office and further, that a copy of the Commercial Checklist was provided you. However, in an effort to assure that there is no further misunderstanding or delay, enclosed please find a "red lined plan" detailing the required information set

# 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 424.1 B to permit two parking spaces in lieu of the required four parking spaces

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

TO BE DETERMINED AT HEARING

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:  
(Type or Print Name)  
Signature  
Address  
City and State  
Attorney for Petitioner:  
Deborah C. Dopkin  
(Type or Print Name)  
Signature  
210 Allegheny Avenue  
Address  
Towson, MD 21204  
City and State  
Attorney's Telephone No.: 823-4111

Legal Owner(s):  
Gertrude J. Edwards  
(Type or Print Name)  
Signature  
(Type or Print Name)  
Signature  
Address  
City and State  
Name, address and phone number of legal owner, contract purchaser or representative to be contacted  
Deborah C. Dopkin  
Name  
823-4111  
210 Allegheny Ave. Towson, MD 21204  
Address  
Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 12th day of November, 1987, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 105, County Office Building in Towson, Baltimore County, on the 28th day of January, 1988, at 11 o'clock A.M.

*J. Robert Haines*  
Zoning Commissioner of Baltimore County.

RECEIVED BY THE ZONING COMMISSIONER OF BALTIMORE COUNTY

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

DATE 10-1-97 BY CDC

RECEIVED BY: CDC DATE 10-1-97

Mrs. Gertrude J. Edwards  
May 10, 1989  
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forth above, a copy of the Board of Appeals' Order issued December 8, 1988, and an additional copy of the Commercial Permit Application checklist.

In the event you have any questions, please do not hesitate to contact John Lewis, Planning and Zoning Associate, or Carl Richards, Zoning Coordinator at 897-3391.

Very truly yours,  
*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner for Baltimore County

JRH:bjs  
cc: Deborah C. Dopkin, Esquire  
210 Allegheny Avenue, Towson, Md. 21204

Barbara Eckley  
Permits & Licenses  
John L. Lewis  
Carl Richards  
Case File



Copy of red lined 88-283-XA plan to Mrs Gertrude Edwards ET AL.  
Necessary info for permit filing

# STV/LYON ASSOCIATES

ENGINEERS ARCHITECTS PLANNERS  
21 GOWERS BUILDING  
BALTIMORE, MD 21207-2722  
301/944-9112

ZONING DESCRIPTION  
GERTRUDE LUVINIA JOHNSON  
(AK/A GERTRUDE J. EDWARDS) PROPERTY,  
NO. 3829 RAYTON ROAD  
ELECTION DISTRICT NO. 2, C2  
BALTIMORE COUNTY, MARYLAND.

BEGINNING FOR THE SAME at a point along the southwesterly side of Rayton Road (50 feet wide), at the line of division between Lot 1 and Lot 2, Block D, Section 2, "THE WOODLANDS", recorded among the Land Records of Baltimore County, Maryland in Plat Book O.T.G. No. 31, folio 95, said point being distant North 59°49'05" West 78.07 feet from a southwesterly projection of the centerline of Byers Court (50 feet wide), thence along said southwest side of Rayton Road, as follows;

- South 59°49'05" East 61.77 feet to a point, thence leaving Rayton Road and running along the boundaries of said Lot 2, the three following courses and distances,
- South 30°10'55" West 93.79 feet to a point, thence,
- South 87°07'40" West 73.70 feet to a point, thence,
- North 30°10'55" East 133.99 feet to the point of beginning ... containing 7,035 square feet or 0.1615 acre of land, more or less.

The improvements thereon being known as No. 3829 Rayton Road.

*Mark A. Riddle*  
STV/LYON ASSOCIATES  
Mark A. Riddle  
MD Reg. Property Line Surveyor No. 244

September 30, 1987



STV ENGINEERS, Engineers, Architects, Planners, Professional Member Forms, STV/Lyon Associates  
STV/Management Consultants, STV, 14-2, District 100, STV/Builders & Trainers, STV/Security Services, Value & Kinetics

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner

June 7, 1989



Dennis F. Rasmussen  
County Executive

The Honorable Helen D. Bentley  
District Office  
200 East Joppa Road  
Towson, MD 21204

RE: Gertrude J. Edwards  
Day Care Center  
3829 Rayton Road  
2nd Election District

Dear Congresswoman Bentley:

As per my letter to Mrs. Edwards dated 5/10/89 (copy attached), once revised plans with the required additional information are submitted with the permit application in person to the Office of Permits and Licenses, forwarded to the Current Planning Office, then forwarded to this office, a review and approval would be completed. The revised plans printed on 5/24/89 by STV Lyon Associates were resubmitted to the Permits and Licenses Office on 5/26, forwarded to the Current Planning Office, received by this office on 5/31 and approved on 6/6/89.

Please be advised that the denial to use the basement as part of her day care center was not by the Zoning Office, but by the Fire Department per their regulations.

If you have any questions, please do not hesitate to call me at 887-3391.

Very truly yours,

*J. Robert Haines*  
J. Robert Haines  
Zoning Commissioner

JRS:scj

# BALTIMORE COUNTY, MARYLAND

## Inter-Office Correspondence

TO: J. Robert Haines, May 8, 1989  
Zoning Commissioner  
FROM: John L. Lewis  
Planning & Zoning Associate III  
SUBJECT: 88-283-X Class B Child Care Center  
Permit Application

Several months ago, Mrs. Gertrude Edwards attempted to file in person for a permit approval for a Class B Child Care Center as was approved in zoning case 88-283-XA. A review of the plan in Mrs. Edwards' presence indicated that certain requirements of the Commercial Checklist for permit application were lacking, these were:

- Zoning History stating that the property was the subject of zoning case 88-283-XA, and listing what was granted, the date of the order and any restrictions.
- Revision of the plan concerning note number 12 reducing the number of children from 40 to 15 (per the Board of Appeals restriction number 2).
- A clear indication of the location of an 18 ft x 18 ft parking pad which was also the subject of a restriction.
- Title change from the Zoning Plat to Plat to accompany Building Permit application.

The above listed information was requested on 9 revised site plans and a copy of the commercial checklist was provided to Mrs. Edwards. A review of resubmitted plans on May 8, 1989 indicated that these changes have not yet been included on the plans for permit application as originally submitted. A red lined plan detailing missing information is re-submitted with this memo.

# DEER PARK CHILDREN'S CENTER, INC.

3829 Rayton Rd.  
Randallstown, MD 21133  
(301) 822-3303-4  
May 5, 1989

William Donald Schaefer  
Governor  
State Office Bldg.  
Annapolis, Maryland 21401

Dear Governor Schaefer:

This letter will inform you of problems I have had in trying to establish a day care center in Randallstown, Md. since 1984. Also, of misinformation given me by local officials. This misinformation has cost me thousands of dollars and areas within the center that I can not use.

I am requesting that you review the materials, after which I would like to meet with you to answer questions and address in detail these problems. My phone no. 655-5327 or 922-3303.

In 1984, the Baltimore county fire dept. inspected the building and stated that I could use the basement for day care. Because of zoning regulations I did not meet requirements so discontinued the process. However, in 1987 with regulations changes I began the process of establishing a day care center. At this time the fire dept. and the Dept. of Human Resources informed me that I could use the entire building for day care. The fire dept. required installation of fire bells on each floor. I followed instructions. I purchased furniture, renovated the basement i.e. installed bath room, lighting, water fountain, painted the room, carpeted the floor. In the kitchen I removed all fixtures and installed a commercial sink and hand basin.

I informed the Regional Office of The Dept. of Human Resources of my intention to open May 8, 1989. An appointment for inspection was scheduled for April 19, 1989. On April 14, 1989 the office informed me that I had not applied for change of occupancy permit. However, this is incorrect as I attempted to apply in December 1988. It is required by the Dept. of Permits & Licenses that an Architect or Engineer inspect the building. I called at least ten persons, no one knew or could understand why this was needed and refused to come out.

I informed the Regional office of my problem and was assigned to work with Mrs. Louise Corwin, child care coordinator. However, Mrs. Corwin was not fully aware of the changes in occupancy procedures and I was lead to believe that she was taking care of the problem.

Mrs. Drayton, Regional Manager, in trying to resolve the problem arranged for me to meet with the Office of Plans Review, Permits and Licenses, Child care coordinator, Zoning, Bldg. Inspector and Fire Marshal on Friday April 28, 1989. The decisions were as follows:

1. Mr. Seim, would waive the plans needed (which would cost me \$2,000.00), if I send a letter stating that I would not use the one room on the second floor for day care. I agreed to this because Capt. Brady the Fire Marshal assured Mrs. Drayton and me that I could use the basement. His decision was based on the report from the fire dept.

2. The second decision, Capt. Brady and Mr. Wisnom from building inspection would visit the center on May 1. 1989 for a walk through.

At time of inspection Capt. Brady and Mr. Wisnom discussed the fire and bldg. codes as related to the furnace. Neither was clear on the actual meaning of the code. Because of this Capt. Brady restricted the use of the basement. From this restriction I am now prevented from the use of two major

areas. This restriction will prevent me from providing care to eight school age children and tutoring in math and reading skills to other children. Capt. Brady could not tell me what was needed in order to use the basement. He stated that I was to contact his office if I planned to increase enrollment.

I am aware of the need for safe buildings, codes, regulations and child safety. However, if quality care in a licensed setting is to be provided there is a need for coordination between local agencies that make decisions that affects the licensure process.

I am requesting that you review the license process for day care. Issues such as: 1. Who is actually responsible for assigning the number of children to a center. 2. What is the purpose of the Department of Human Resources. 3. Why is it necessary to pay \$2,000.00, to an engineer to draw floor plans of a building that has been used for a residence for several years. 4. Who is responsible for fire inspection and decision making.

I am also requesting your assistance in obtaining a waiver from these restrictions so I can provide care as promised and planned. The fire dept. and the Office of Regional Managers gave me permission to use the building for at least twenty to thirty children. I prepared the building. However, I can not use the entire building and is restricted to fifteen children.

I have spent more than \$50,000. and still have not obtained a change of occupancy permit nor license to operate. Thank you for your immediate attention to this letter.

Sincerely,  
Gertrude J. Edwards CRNA, MPA

CC: C. Drayton Regional Manager  
B. Eckley Permits & Licenses  
Rasmussen, county executive  
H. Bently Congresswoman

County Board of Appeals of Baltimore County  
Room 200 Court House  
Towson, Maryland 21204  
(301) 494-3180  
June 2, 1988  
NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 88-283-XA

GERTRUDE J. EDWARDS  
SE/cor Rayton Road and Kings Point Road  
(3829 Rayton Road)  
2nd Election District  
2nd Councilmanic District  
SE - Child Care Center  
VAR - 2 parking spaces in lieu of 4  
3/17/88 - Z.C.'s Order - Special Exception  
and Variance - DENIED

ASSIGNED FOR:

cc: Robert A. Hoffman, Esquire  
Deborah C. Dopkin, Esquire  
Ms. Gertrude J. Edwards

STV/Lyon Associates

Mr. Lawrence E. Seng  
Mr. Don Kibble  
Phyllis C. Friedman

P. David Fields  
James G. Hoswell  
J. Robert Haines

Ann M. Nastarowicz  
James E. Dyer  
Docket Clerk - Zoning

Arnold Jablon, County Attorney

Counsel for Appellant/Petitioner  
" " "  
Appellant/Petitioner

People's Counsel for Baltimore County

THURSDAY, JULY 28, 1988 at 10:00 a.m.

Kathleen C. Weidenhammer  
Administrative Secretary

County Board of Appeals of Baltimore County  
COUNTY OFFICE BUILDING  
111 W. CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 494-3350 887-3180

December 8, 1988

Robert A. Hoffman, Esquire  
COOK, HOWARD, DOWNS & TRACY  
Post Office Box 5517  
Towson, MD 21204

RE: Case No. 88-283-XA  
Gertrude J. Edwards

Dear Mr. Hoffman:

Enclosed is a copy of the final Opinion and Order issued this date by the County Board of Appeals in the subject case.

Sincerely,

Kathleen C. Weidenhammer  
Administrative Secretary

encl.

cc: Ms. Gertrude J. Edwards  
STV/Lyon Associates  
Mr. Lawrence E. Seng  
Mr. Don Kibble  
Deborah C. Dopkin, Esquire  
People's Counsel for Baltimore County  
P. David Fields  
Pat Keller  
J. Robert Haines  
Ann M. Nastarowicz  
James E. Dyer  
Docket Clerk - Zoning  
Arnold Jablon, County Attorney

County Board of Appeals of Baltimore County

Room 315, County Office Building  
Towson, Maryland 21204  
(301) 494-3180

September 8, 1988

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 86-283-XA

Day #2  
(continued from  
7/28/88)

GERTRUDE EDWARDS

SE/cor Rayton Road and Kings Point Road  
(3829 Rayton Road)

2nd Election District  
2nd Councilmanic District

SE - Child Care Center

VAR - 2 parking spaces in lieu of 4

3/17/88 - Z.C.'s Order that Special Exception and Variance - DENIED.

ASSIGNED FOR: THURSDAY, NOVEMBER 17, 1988 at 10:00 a.m.

cc: A. Hoffman, Esquire  
C. Dopkin, Esquire  
Gertrude J. Edwards

Counsel for Appellant /Petitioner  
" " "  
Appellant /Petitioner

STV /Lyons Associates

Mr. Lawrence E. Seng

Mr. Don Kibble

Phyllis C. Friedman

P. David Fields

Pat Keller

J. Robert Haines

Ann M. Nastarowicz

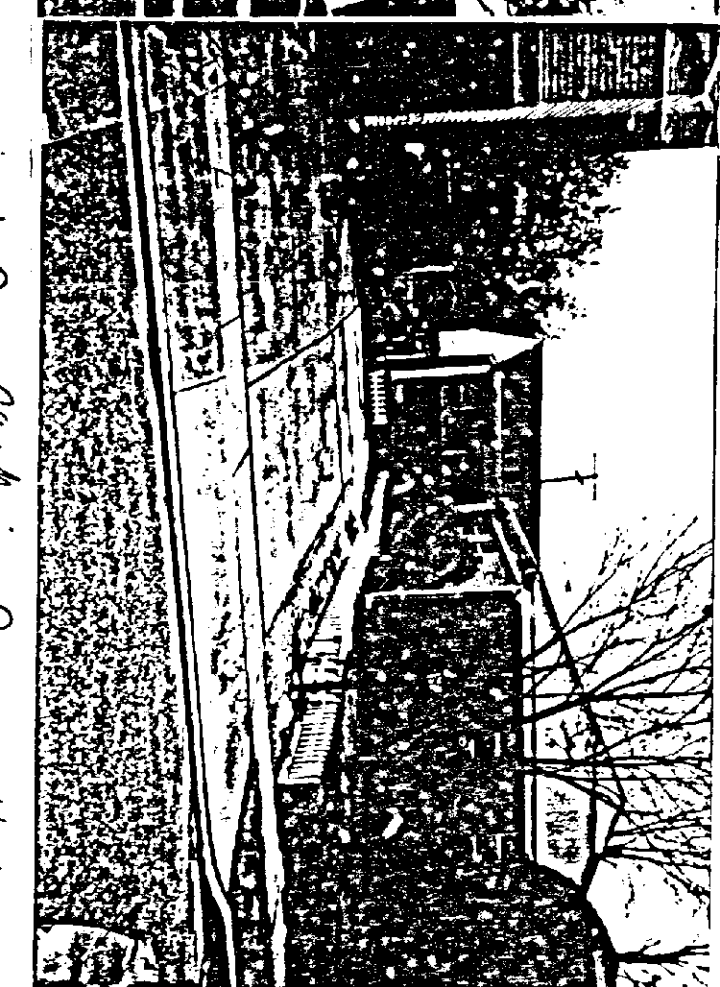
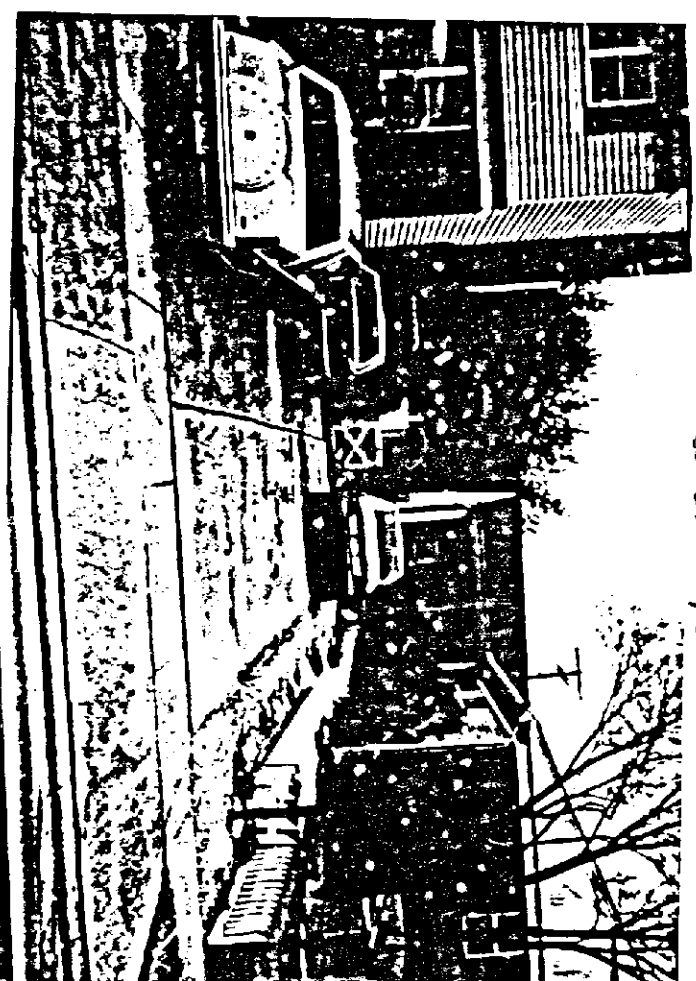
James E. Dyer

Docket Clerk -Zoning

Arnold Jablon, County Attorney

Kathleen C. Weidenhammer  
Administrative Secretary

PETITIONER'S  
EXHIBIT 2



EDUCATION

1955 - 1958

GERTRUDE JOHNSON EDWARDS, CRNA, BA, MPA  
3827 RAYTON ROAD  
RANDALLSTOWN, MARYLAND 21133  
(301) 455-5127

Medical College of Virginia School of Nursing, graduated September, 1958.

1959 - 1961

St. Joseph Hospital School of Anesthesia, graduated March, 1961.

1976 - 1979

University of Baltimore, Bachelor of Arts Degree, June, 1979.

1979 - 1985

University of Baltimore, Graduate School; Major - Public Administration, Concentration Health Policy.

EXPERIENCE

1973 - 1979

Captain, U.S. Airforce Reserves (Nurse Corps)

1977 - 1979

Instructor, Cardio-pulmonary Resuscitation, for the Red Cross.

1978

Guest Lecturer, Community College of Baltimore, to Operating Room Technicians, "The Administration of Anesthesia and: The Responsibility of the O.R.T. to the Anesthetized Patient."

1981

Guest Lecturer for Home-makers of America, "The Triangle of Success" Mayo High School, Darlington, South Carolina, April Fall Meeting, Gaithersburg, Maryland, October.

1982

Chairperson, Maryland Association of Nurse Anesthetists

Guest Lecturer, Dunbar High School, Nurse Anesthesia Career Day, "The Role of the Nurse Anesthetist", April.

1982

Guest Lecturer as a member of the Health Team, Provident Hospital, (April).

EMPLOYMENT

March, 1961 -

August 1972

Provident Hospital, Chief Nurse Anesthetist  
Duties: Administration of Anesthesia, scheduling of cases, pre- and postoperative rounds, ordering of supplies.  
Lecturing to student nurses, supervision and instruction of anesthesia to dental residents.

September, 1972 -

December, 1978

Staff Anesthetist, Lutheran Hospital  
Duties: Administration of anesthesia (General and Spinals)

(OVER)

PROTESTANT'S  
EXHIBIT 2

[illegible]

5209 Rayton Rd.  
Randallstown, MD 21133

# PROTESTANT'S

## EXHIBIT 1

JRH:mn  
enclosure

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3353

J. Robert Haines  
Zoning Commissioner

May 2, 1988



Dennis F. Rasmussen  
County Executive

Baltimore County Board of Appeals  
Old Courthouse, Room #205  
Towson, Maryland 21204

RE: Petition for Special Exception and Variance  
S/E corner Rayton Road and Kings Point Road  
(3829 Rayton Road)  
2nd Election District, 2nd Councilmanic District  
Gertrude J. Edwards - Petitioner  
Case No. 88-283XA

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on April 8, 1988 by Robert A. Hoffman. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. ROBERT HAINES  
Zoning Commissioner

JRH:cer

Enclosures

cc: Deborah C. Dopkin, Attorney for Petitioner  
210 Allegheny Avenue, Towson, Md. 21204

Robert A. Hoffman, Attorney for Petitioner  
210 Allegheny Avenue, Towson, Md. 21204

File

Revised Letter (original 4/27/88)

LAW OFFICES  
COOK, HOWARD, DOWNES & TRACY  
210 ALLEGHENY AVENUE  
P.O. BOX 5517  
TOWSON, MARYLAND 21204

JAMES H. COOK  
JOHN B. HOWARD  
DAVID D. DOWNES  
DANIEL O. TRACY, JR.  
JOHN H. ZINK, III  
JOSEPH C. WICK, JR.  
HENRY B. PECK, JR.  
HERBERT B. O'CONNOR, III  
FRANK F. HERTSCH  
CHARLES E. LEAF  
THOMAS L. HUDSON  
C. CAROL DELEY, JR.  
H. KING HALL, III  
GEORGE A. REYNOLDS, III  
ROBERT A. HOFFMAN  
CYNTHIA M. HAHN

REPLY TO: TOWSON

May 2, 1989

JUDITH A. ARNOLD  
DEBORAH C. DOPKIN  
KATHLEEN GALLAGHY COX  
JOHN J. GESSNER  
J. MICHAEL BRENNAN  
H. BARNETT PETERSON, JR.  
JOSEPH F. SNEE, JR.  
KATHRYN L. KOTZ  
JAMES H. MARTIN  
NEWTON B. FOWLER, III  
CHARLES H. WELLINGTON  
KEVIN J. HADOMEY  
ELISABETH S. RUBIN  
MARK E. SMITH  
BRIAN A. BALENSON  
JAMES D. C. DOWNES  
(1906-1979)

Ms. Gertrude J. Edwards Mitchell  
3827 Rayton Road  
Randallstown, Maryland 21133

Dear Ms. Edwards:

We received a phone call from John Lewis of the Zoning Office inquiring about revisions to the zoning plat. As you may recall, the plat was revised to show the parking pad and a note placed on the plat regarding the relocation of the timber posts. Enclosed is a copy of the revised plat which you may need in order to obtain your permits.

John Lewis and Carl Richards of the Zoning Office have been trying to contact you to request that you bring your revised plat in for review.

Sincerely,

Alice A. Malinowski  
Legal Assistant

AAM:bw  
Enclosure  
cc: John Lewis  
Robert A. Hoffman, Esquire

# APPEAL

Petition for Special Exception and Variance  
S/E corner Rayton Road and Kings Point Road  
(3829 Rayton Road)  
2nd Election District - 2nd Councilmanic District  
Gertrude J. Edwards, Petitioner  
Case No. 88-283XA

Petition for Special Exception and Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments (none submitted)

Petitioner's Exhibits: 1) Plat of Property

2) Seven 3" x 5" pictures attached to a manilla envelope displaying area.

3) Copy of Qualifications of Gertrude Johnson Edwards

4) Petition of support

5) Copy of Qualifications of Shirley S. Bennett

Protestants's Exhibits: 1) Petition of protest

2) Letter of Protest from Lawrence Seng

Letter of Protest dated February 3, 1988 from Alfred B. Miller

Zoning Commissioner's Order dated March 17, 1988

Notice of Appeal received April 8, 1988 from Robert A. Hoffman, Attorney

Deborah C. Dopkin, Attorney for Petitioner  
210 Allegheny Avenue, Towson, Md. 21204

Robert A. Hoffman, Attorney for Protestant  
210 Allegheny Avenue, Towson, Md. 21204

Request Notification:

P. David Fields, Director of Planning & Zoning  
James Howell, Office of Planning & Zoning  
J. Robert Haines, Zoning Commissioner  
Ann M. Nastarowicz, Deputy Zoning Commissioner  
James E. Dyer, Zoning Supervisor  
Docket Clerk

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Adele A. Kass  
Councilmanic Aide  
Second District

January 31, 1989

FROM: James H. Thompson  
Zoning Enforcement Coordinator

RE: Case No. 283-XA  
3829 Rayton Road  
2nd Election District

Per your most recent request the week of January 23, 1989, I have had the opportunity to once again review this case with Commissioner Haines on January 30, 1989.

A close examination of the site plan prepared by STV/Lyon Associates submitted with the petition application does indicate timber post in pavement in a street closed to thru traffic, (enclosed). However, with the subject area located in the street, our office lacks the authority to address your constituents concern.

You should contact Gene L. Neff, Director of Public Works at 897-3306 as to who was responsible for erecting a steel barricade in lieu of the timber post.

JHT:ljs

Enclosure

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner

May 10, 1989

Mrs. Gertrude J. Edwards  
3827 Rayton Road  
Randallstown, Maryland 21133

RE: Petitions for Special Exception and Zoning Variance  
S/E Corner Rayton Road and Kings Point Road  
(3829 Rayton Road)  
2nd Election District - 2nd Councilmanic District  
Gertrude J. Edwards - Petitioner  
Case No. 88-283-XA

Dear Mrs. Edwards:

Pursuant to your recent attempts to gain permit approval for a Class B Child Care Center in accordance with the special exception granted in the above-referenced case, the following comments are offered.

I have discussed the matter with Mr. John Lewis of this office and a thorough review of the plans submitted on May 8, 1989 revealed that certain requirements of the Commercial Checklist for permit application remain unresolved. Please be advised that prior to the issuance of any permits, the following conditions must be met:

a) The site plan filed must reference Case No. 88-283-XA and set forth the conditions and restrictions contained therein. Therefore, a new site plan must be submitted which reflects this zoning history.

b) Note Number 12 of said plan must reflect the reduction in the number of children permitted to attend the center from 40 to 15 in accordance with the Board of Appeals' Order issued December 8, 1988.

c) The existence and location of the 18' x 18' parking pad which was the subject of a restriction in said Order must be clearly depicted on said plan.

d) The title change from the Zoning Plat to Plat must accompany the building permit application.

It is my understanding that the aforementioned requirements were made known to you on your initial visit to this office and further, that a copy of the Commercial Checklist was provided you. However, in an effort to assure that there is no further misunderstanding or delay, enclosed please find a "red lined plan" detailing the required information set

forth above, a copy of the Board of Appeals' Order issued December 8, 1988, and an additional copy of the Commercial Permit Application checklist.

In the event you have any questions, please do not hesitate to contact John Lewis, Planning and Zoning Associate, or Carl Richards, Zoning Coordinator at 887-3391.

Very truly yours,

J. Robert Haines  
J. ROBERT HAINES  
Zoning Commissioner for  
Baltimore County

JRH:bjs

cc: Deborah C. Dopkin, Esquire  
210 Allegheny Avenue, Towson, Md. 21204

Barbara Eckley  
Permits & Licenses

John L. Lewis  
Carl Richards  
Code File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Jim Thompson  
Zoning Enforcement Coordinator

FROM: Melvin G. Mintz  
Case # 283-XA  
3829 Rayton Road, 2nd Election District

DATE: January 31, 1989

I call your attention to an order granting special exception for a child care center on Rayton Road, in the 2nd election district, dated December 8, 1988.

I would appreciate your comments at your earliest convenience as to the restriction #1 that speaks of the barricade type post relocation. Please clarify for me, if in fact erection of a new metal barricade meets the above mentioned restriction. I call your attention to specifically the words in that restriction, "to have the barricade type post relocated... and further on where it says, "the child care center shall not operate until these posts are physically relocated".

MGM:cae

RECEIVED  
FEB 9 1989

ZONING OFFICE

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: J. Robert Haines  
Zoning Commissioner

May 8, 1989

FROM: John L. Lewis  
Planning & Zoning Associate III

SUBJECT: 88-283-X Class B Child Care Center  
Permit Application

Several months ago, Mrs. Gertrude Edwards attempted to file in person for a permit approval for a Class B Child Care Center as was approved in zoning case 88-283-XA. A review of the plan in Mrs. Edwards presence indicated that certain requirements of the Commercial Checklist for permit application were lacking, these were:

1. Zoning History stating that the property was the subject of zoning case 88-283-XA, and listing what was granted, the date of the order and any restrictions.
2. Revision of the plan concerning note number 12 reducing the number of children from 40 to 15 (per the Board of Appeals restriction number 2).
3. A clear indication of the location of an 18 ft x 18 ft parking pad which was also the subject of a restriction.
4. Title change from the Zoning Plat to Plat to accompany Building Permit application.

The above listed information was requested on 9 revised site plans and a copy of the commercial checklist was provided to Mrs. Edwards. A review of resubmitted plans on May 8, 1989 indicated that these changes have not yet been included on the plans for permit application as originally requested. A red lined plan detailing the missing information is submitted with this memo.

BALTIMORE COUNTY, MARYLAND  
Inter-Office Memorandum

TO: Councilman Melvin G. Mintz  
County Council Office

February 13, 1989

FROM: J. Robert Haines  
Zoning Commissioner

SUBJECT: Case #283-XA, 3829 Rayton Road  
2nd Election District

Please be advised that the above captioned matter is currently under the jurisdiction of the Baltimore County Board of Appeals. Although, the Board denied the Motion for Reconsideration, that denial is not a final and an absolute Order, since the Board allowed the Petitioner's attorney to submit a Memorandum in Support of its position that the Board's opinion is in error.

While this matter is still before the Board of Appeals, the Order is not final and, therefore, not enforceable. At this point and time, it would be inappropriate to undertake action against the Petitioner concerning enforcement of an Order that is not final.

I have requested that the Zoning Inspector make an additional reinspection of the property to determine the current status of the use of the subject site.

I hope this information is helpful. Please feel free to call on me in the future.

JRH:mmm

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Councilman Melvin G. Mintz  
Second Councilmanic District

FROM: James H. Thompson  
Zoning Enforcement Coordinator

RE: Case No. 283-XA  
3829 Rayton Road  
2nd Election District

Per your request of January 18, 1989, the above subject case was to be investigated by Inspector Derek Propolis. However, I have had the opportunity to discuss this case first with the Baltimore County Board of Appeals, relative to their ruling of December 8, 1988, and then with the Zoning Commissioner, J. Robert Haines.

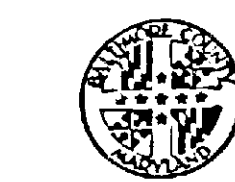
Presently, the Board has stayed their order pending submittal from the legal council of Gertrude J. Edwards additional evidence that could modify their ruling. Under these circumstances, Commissioner Haines has informed me that any alleged violation (sign) at 3829 Rayton Road cannot be addressed by the Zoning Enforcement Section.

However, Mr. Propolis will be inspecting in the vicinity of Marriottsville Road, for the placement of an outdoor advertising sign that calls attention to the child care center at 3829 Rayton Road. This office is processing this matter under case number C-89-1262. As always, we will update you of the results of our investigation and all subsequent developments.

For your benefit, I have enclosed a copy of both the Zoning Commissioner's ruling and that of the Baltimore County Board of Appeals of December 8, 1988.

If further questions remain, please contact this office at 887-3351.

JHT:lj  
Enclosures



County Board of Appeals of Baltimore County

Room 200 Court House  
Towson, Maryland 21204  
(301) 494-3180

HEARING ROOM #218

June 2, 1988  
NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(c). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 88-283-XA

GERTRUDE J. EDWARDS  
SE/cor Rayton Road and Kings Point Road  
(3829 Rayton Road)  
2nd Election District  
2nd Councilmanic District  
SE -Child Care Center  
VAR -2 parking spaces in lieu of 4  
3/17/88 -Z.C.'s Order -Special Exception  
and Variance -DENIED

ASSIGNED FOR:

THURSDAY, JULY 28, 1988 at 10:00 a.m.

cc: Robert A. Hoffman, Esquire Counsel for Appellant/Petitioner  
Deborah C. Dopkin, Esquire " " "  
Ms. Gertrude J. Edwards Appellant/Petitioner

STV/Lyon Associates

Mr. Lawrence E. Seng

Mr. Don Kibble

Phyllis C. Friedman

People's Counsel for Baltimore County

P. David Fields

James G. Hoswell

J. Robert Haines

Ann M. Nastarowicz

James E. Dyer

Docket Clerk -Zoning

Arnold Jablon, County Attorney

Kathleen C. Weidenhammer  
Administrative Secretary

11/87

LAW OFFICES

COOK, HOWARD, DOWNS & TRACY  
210 ALLEGHENY AVENUE  
P.O. BOX 5517  
TOWSON, MARYLAND 21204

TELEPHONE  
(301) 823-4111  
TELECOPIER  
(301) 823-4117  
DIRECT DIAL NUMBER  
494-9162

April 7, 1988

JAMES H. COOK  
JOHN B. HOWARD  
DAVID D. DOWNS  
DAVID C. TRACY, JR.  
JOHN H. ZIMMERMANN  
JOSEPH C. WICK, JR.  
HENRY B. PECK, JR.  
HENRY B. DODD, JR.  
THOMAS L. HUSON  
C. CANEY DELLEY, JR.  
M. KENDALL, JR.  
ROBERTA. HOFFMAN  
CYNTHIA M. HANN

HAND DELIVERY

J. Robert Haines, Esquire  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

Re: Notice of Appeal  
Findings of Fact and Conclusions of Law  
dated March 17, 1988  
Zoning Case No. 88-283XA

Dear Mr. Haines:

Please note an Appeal to the County Board of Appeals of Baltimore County on behalf of Gertrude J. Edwards, Appellant, whose address is 3827 Rayton Road, Randallstown, Maryland 21133, from the Findings of Fact and Conclusions of Law referenced above.

Enclosed is a check in the amount of \$190.00 (One-Hundred Ninety Dollars) to cover the cost of filing.

Thank you.

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

No. 50586

Hoffman

DATE: 4/7/88 ACCOUNT: 50586  
AMOUNT: \$190.00  
RECEIVED BY: J. Robert Haines, Esquire  
FOR: Gertrude J. Edwards, Appellant  
VALIDATION OR SIGNATURE OF CASHIER

RECEIVED  
APR 9 1988  
ZONING OFFICE

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. J. Robert Haines  
To: Zoning Commissioner  
Date: December 9, 1987

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

SUBJECT: Zoning Petition No. 88-283-X

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

NEG:JGH:dme

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

Norman E. Gerber, AICP  
Director

SHIRLEY S. BENNETT  
9714 Mendoza Road  
Randallstown, MD 21133  
(301) 655-8691

OBJECTIVE: To work with children or handicapped youth who need guidance to achieve their goals.

EMPLOYMENT: Rockland Elementary School  
Howard County School System  
Columbia, MD

Responsibilities: Planned and organized activities for small groups in the Language Impaired and the Student Learning Disability Programs. Activities included math, reading and writing. Prepared learning centers and organized field trips and other school related activities.

1975-76 Delray Center  
United Cerebral Palsy for Handicapped Children  
Responsibilities: Reviewed and assisted the school therapist with individuals goals.

1973-74 Lida Lee Day Care Center  
Towson, MD  
Responsibilities: Worked as the Assistant Teacher for the Center.

1972-73 Little Slippers Kindergarten  
Baltimore County  
Baltimore, MD

Responsibilities: Taught Nursery School children in the school.

1967-74 Anson County School System  
Wadesboro, North Carolina  
Responsibilities: Worked in the Early Childhood Education Program, substitute-taught elementary grades one through three, as well as kindergarten and nursery school. Taught pre-school age children in the federally sponsored Head-start Program.

EDUCATION: J.R. Faison Senior High School  
Wadesboro, North Carolina Diploma - 1965  
Johnson C. Smith University  
Charlotte, North Carolina Elementary Education - 60 Sem.Hrs.  
As part of my employment with Anson County Schools, 64 Hrs. was earned toward a degree in Early Childhood Education through the University of North Carolina at Chapel Hill.

REFERENCES: Available upon request

PROTESTANT(S) SIGN-IN SHEET

| NAME              | ADDRESS                                      |
|-------------------|----------------------------------------------|
| LAWRENCE E. SENG  | 3829 RAYTON RD RANDALLSTOWN MD 21133         |
| PAUL A. CAPRIULO  | 9913 COCONA LANE #202, RANDALLSTOWN MD 21133 |
| Sylvia J. Johnson | 3904 RAYTON RD RANDALLSTOWN MD 21133         |
| CATHERYN SENG     | 3702 RAYTON RD RANDALLSTOWN MD 21133         |
| DONALD A. KIBBLE  | 3926 RAYTON RD RANDALLSTOWN MD 21133         |
| Blanche Capriulo  | 3901 RAYTON RD RANDALLSTOWN MD 21133         |
| Helen E. Hudson   | 3905 RAYTON RD RANDALLSTOWN MD 21133         |
| ISIAH HUDSON      | 3905 RAYTON RD RANDALLSTOWN MD 21133         |
| HENRY M. BUSTOS   | 3707 RAYTON RD RANDALLSTOWN MD 21133         |
| ALBERT B. MILLER  | 3903 RAYTON RD RANDALLSTOWN MD 21133         |
| CLARK WELCH       | 3913 RAYTON RD RANDALLSTOWN MD 21133         |
| MORRIS A. JOHNSON | 3904 RAYTON RD RANDALLSTOWN MD 21133         |
| Edward Dudley     | 3831 RAYTON RD RANDALLSTOWN MD 21133         |

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER  
SE Corner Rayton Rd. & Kings Point Rd. (3829 Rayton Rd.) : OF BALTIMORE COUNTY  
2nd Election District :  
GERTRUDE EDWARDS, Petitioner : Case No. 88-283-X

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  
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 18th day of December, 1987, a copy of the foregoing Entry of Appearance was mailed to Deborah C. Dopkin, Esquire, 210 Allegheny Ave., Towson, MD 21204, Attorney for Petitioner.

Peter Max Zimmerman

CERTIFICATE OF PUBLICATION

Pikesville, Md., Jan. 6, 1988

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHWEST STAR, a weekly newspaper published in Pikesville, Baltimore County, Maryland before the 7th day of January 1988

the first publication appearing on the 6th day of January, 1988

the second publication appearing on the 7th day of January, 1988

the third publication appearing on the 8th day of January, 1988

THE NORTHWEST STAR

Jon Boile  
Manager

Cost of Advertisement \$19.70

CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 2nd Date of Posting: 1-11-88

Posted for: Special Exception and Variance

Petitioner: Gertrude Edwards

Location of property: SE Corner Rayton Rd and Kings Point Rd (3829 Rayton Rd)

Location of Sign: Corner of SE Corner Rayton Rd

Remarks:

Posted by: J. Robert Haines Date of return: 1-19-88

Number of Signs: 2

Baltimore County  
Zoning Commissioner  
Office of Planning and Zoning  
County Office Building  
Towson, Maryland 21204  
494-4332

J. Robert Haines  
Zoning Commissioner

November 25, 1987

Ms. Gertrude J. Edwards  
3827 Rayton Road  
Randallstown, Maryland 21133

Re: Case number: 85-283-4  
S/E corner Rayton Rd & Kings Point Road  
(3827 Rayton Road)  
2nd Election District - 2nd Councilmanic District  
Gertrude J. Edwards - Petitioner

Dear Ms. Edwards:

Please be advised that \$68.16 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 from 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 POST RETURNED  
Baltimore County, Maryland No. 45925  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

DATE: 11/18/87 ACCOUNT: 85-283-4  
RECEIVED FROM: Gertrude J. Edwards  
AMOUNT: \$68.16  
FOR: Baltimore County Department of Environmental Protection and Resource Management  
VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL  
PROTECTION AND RESOURCE MANAGEMENT

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

Zoning Item # 125, Zoning Advisory Committee Meeting of October 13, 1987  
Property Owner: Gertrude J. Edwards  
Location: SE corner Rayton Rd & Kings Point Rd District 2  
Water Supply: metro Sewage Disposal: metro

- 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/s of fuel burning equipment, the owner shall contact the Bureau of Air Quality Management, 494-3775, to obtain requirements for such installation/s 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 tank/s (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 charcoal-broiler 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 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.
  - (X) 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 Material 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 testing of existing structures/s, petitioners must contact the Division of Waste Management at 494-3768, regarding removal and/or disposal of potentially hazardous materials and solid wastes. Petitioners 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. A licensed hauler and tank removed from the property or properly backfilled. Prior to removal, owner must contact the Division of Waste Management at 494-3768.
  - ( ) Soil percolation tests must be conducted.
    - ( ) The tests must be conducted.
    - ( ) Soil tests must be conducted.
    - ( ) Soil tests must be conducted.
  - ( ) 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

Karen M. Hervey  
BUREAU OF WATER QUALITY AND RESOURCE  
MANAGEMENT

### 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 herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Case number: 85-283-4  
S/E corner Rayton Road and Kings Point Road  
(3827 Rayton Road)  
2nd Election District - 2nd Councilmanic District  
Petitioner: Gertrude Edwards  
DATE/TIME: Thursday, January 28, 1988 at 11:00 a.m.

Special Exception for a Class B group child care center in accordance with §424.5, and an interpretation regarding applicability of RTA requirements.

Variance to permit two parking spaces in lieu of the required four parking spaces.

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.

J. ROBERT HAINES  
Zoning Commissioner of  
Baltimore County

cc:

Ms. Gertrude J. Edwards

Deborah C. Dopkin, Esq.

file

Baltimore County  
Fire Department  
Towson, Maryland 21204-2546  
494-4500

Paul H. Reincke  
(Unit)

October 19, 1987

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

Re: Property Owner: Gertrude J. Edwards

Location: SE corner Rayton Road and Kings Point Road

Item No.: 125

Zoning Agenda: Meeting of 10/13/87

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 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.

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

/j1

85-283-5PH

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  
3rd day of November, 1987.

J. Robert Haines  
Zoning Commissioner

Petitioner: Gertrude J. Edwards  
Petitioner's Attorney: Deborah C. Dopkin, Esq.  
Received by: James E. Dyer  
Chairman, Zoning Plans  
Advisory Committee

ADVISORY COMMITTEE  
January 12, 1988

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

Deborah C. Dopkin, Esquire  
210 Allegheny Avenue  
Towson, Maryland 21204

RE: Item No. 125 - Case No. 85-283-5PH  
Petitioner: Gertrude J. Edwards  
Petition for Special Hearing

Dear Ms. Dopkin:

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  
Chairman  
Zoning Plans Advisory Committee

JED:kbb

Enclosures

cc: STV/Lyon Associates  
21 Governor's Court  
Baltimore, Maryland 21207

### County Board of Appeals of Baltimore County

Room 200 Court House  
Towson, Maryland 21204  
(301) 491-3180

June 30, 1988

### RELOCATION

#### PLEASE NOTE:

Effective July 11, 1988, all cases scheduled to be heard before the County Board of Appeals in Hearing Room 218 of the Old Courthouse will be heard in Room 301, THIRD FLOOR, COUNTY OFFICE BUILDING (111 W. Chesapeake Avenue--across the street from the Old Courthouse). Scheduled date and time remain the same.

In addition, the administrative offices of the Board will relocate on Friday, July 1, 1988 to Room 315, County Office Building.

If you have any questions, please call 494-3180 (the telephone number will remain the same).

Kathleen C. Weidenhammer  
Administrative Secretary

Baltimore County  
Department of Public Works  
Bureau of Traffic Engineering  
County Office Building, Suite 405  
Towson, Maryland 21204  
494-5554

October 16, 1987

Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

Item No. 125  
Property Owner:  
Location:  
Existing Zoning:  
Proposed Zoning:

-ZAC- Meeting of October 13, 1987  
Gertrude J. Edwards  
SE corner Rayton Road and Kings  
Point Road  
D.R. 5.5 and B.L.-CCC  
Special Exception for a Class B  
group child care center in accor-  
dance with Section 424.5, and an  
interpretation regarding applica-  
bility of RTA requirements and a  
variance to permit two parking  
spaces in lieu of the required  
four parking spaces  
.1615 acres  
2nd Election District

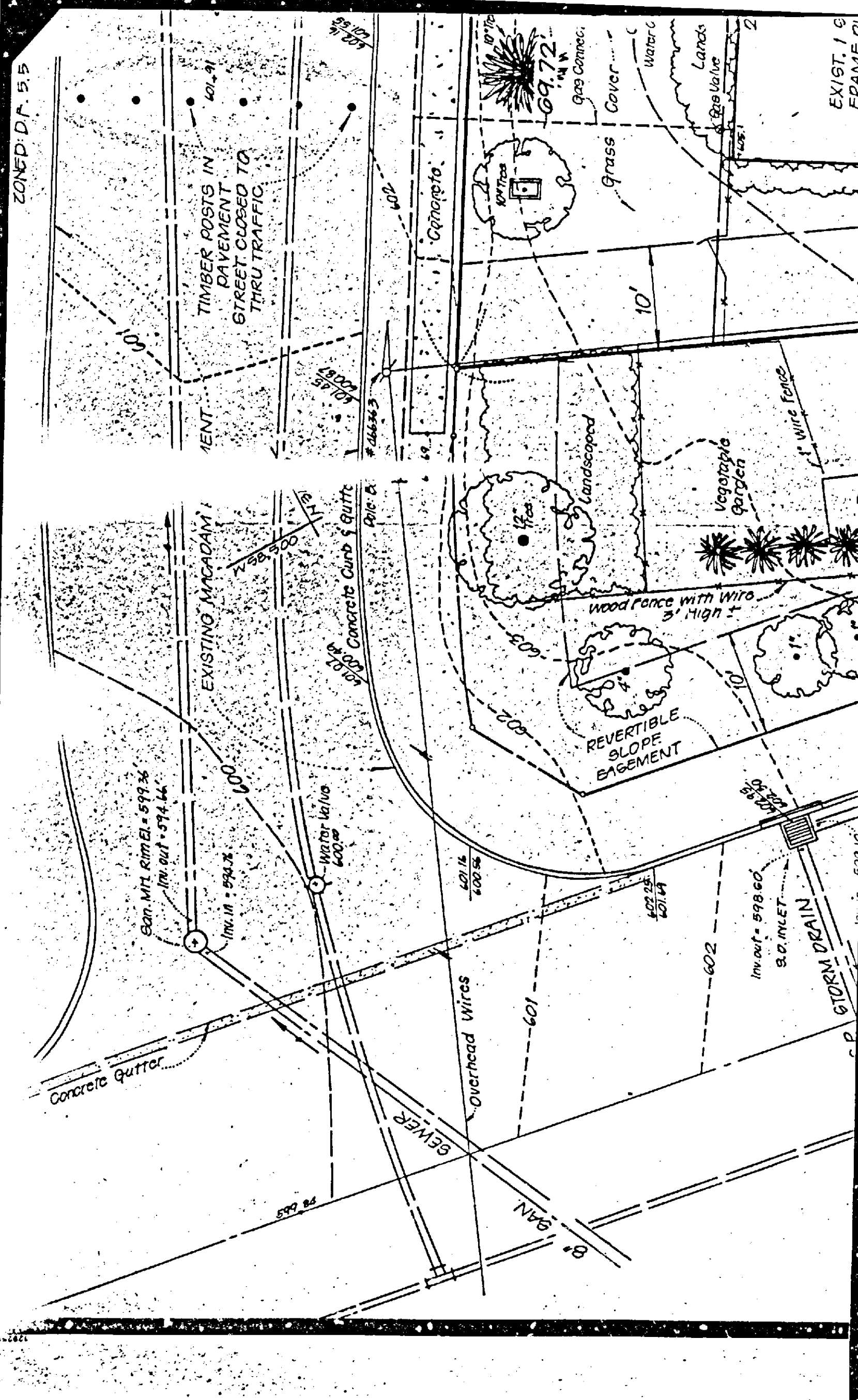
Dear Zoning Commissioner:

The proposed child care center should have a safe off street  
loading area for children.

The Proposed parking variance can be expected to cause parking  
problems in the residential area around the site.

Very truly yours,  
Michael S. Flanagan  
Traffic Engineer

MSF:sb



GERTRUDE J. EDWARDS  
3827 Rayton Road  
Randallstown, MD 21133  
Appellant

\* BEFORE THE  
\* COUNTY BOARD OF APPEALS  
\* OF BALTIMORE COUNTY  
\* Case No.: 88-283-XA

**SUBPOENA DUCES TECUM**

Please issue a Subpoena Duces Tecum for the following individual:

Catherine Drayton  
Acting Regional Manager - Region III  
State of Maryland  
Department of Human Resources  
Office of Child Care Licensing and Regulation  
401 Bosley Avenue, Room 416  
Towson, MD 21204

Please direct her (or her authorized representative) to be and appear for a hearing at 10:00 a.m. on Thursday, July 28, 1988 before the County Board of Appeals of Baltimore County, Room 301, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204 and to bring with her and produce at that time her complete file regarding the application of Gertrude J. Edwards for a Class B Group Child Care Center at 3829 Rayton Road, Randallstown, Maryland.

*Deborah C. Dinkin*  
DEBORAH C. DINKIN  
Cook, Howard, Downes & Tracy  
210 Allegheny Avenue  
P.O. Box 5517  
Towson, Maryland 21204  
301-823-4111  
Attorney for Appellant

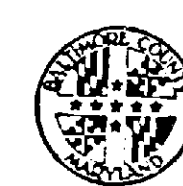
GERTRUDE J. EDWARDS  
3827 Rayton Road  
Randallstown, MD 21133  
Appellant

\* BEFORE THE  
\* COUNTY BOARD OF APPEALS  
\* OF BALTIMORE COUNTY  
\* CASE NO.: 88-283-XA

**RETURN OF PRIVATE PROCESS SERVER**

I, the undersigned hereby certify that I executed service of process upon Catherine Drayton on Jul. 20, 1988 at 1501 N. at 401 Bosley Avenue, Room 416, Towson, Maryland 21204, by delivering and leaving a copy of the Subpoena Duces Tecum issued by this Board on July 20, 1988. I further certify that I am over eighteen years of age and am not a party to this action. I do solemnly declare and affirm under the penalties of perjury that the matters and facts set forth herein are true to the best of my knowledge, information and belief.

*G. Paige Wingert*  
G. PAIGE WINGERT



**County Board of Appeals of Baltimore County**

Room 200 Court House  
Towson, Maryland 21204  
(301) 194-3180

HEARING ROOM #218

June 2, 1988  
**NOTICE OF ASSIGNMENT**

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 88-283-XA

GERTRUDE J. EDWARDS  
SE/cor Rayton Road and Kings Point Road  
(3829 Rayton Road)  
2nd Election District  
2nd Councilmanic District  
SE -Child Care Center  
VAR -2 parking spaces in lieu of 4  
3/17/88 -Z.C.'s Order -Special Exception  
and Variance -DENIED

**ASSIGNED FOR:**

**THURSDAY, JULY 28, 1988 at 10:00 a.m.**

cc: Robert A. Hoffman, Esquire Counsel for Appellant/Petitioner  
Deborah C. Dinkin, Esquire " " "  
Ms. Gertrude J. Edwards Appellant/Petitioner  
STV/Lyon Associates  
Mr. Lawrence E. Seng  
Mr. Don Kibble  
Phyllis C. Friedman People's Counsel for Baltimore County

P. David Fields  
James G. Hoswell  
J. Robert Haines  
Ann M. Nastarowicz  
James E. Dyer  
Docket Clerk -Zoning  
Arnold Jablon, County Attorney

Kathleen C. Weidenhammer  
Administrative Secretary

IN RE: \* BEFORE THE  
\* COUNTY BOARD OF  
\* APPEALS OF  
\* BALTIMORE COUNTY  
\* Case No. 88-283-XA

PETITION FOR SPECIAL  
EXCEPTION OF  
GERTRUDE J. EDWARDS  
3827 Rayton Road  
Randallstown, MD 21133

**MEMORANDUM OF LAW OF MRS. GERTRUDE J. EDWARDS**

Gertrude Edwards, the owner of residence building at 3829 Rayton Road, Randallstown, Maryland ("the Property") filed a Petition for Special Exception to permit a Class B Group child care Center as a principal use pursuant to the Baltimore County Zoning Regulations Section 424. Mrs. Edwards, who lives in the residence adjoining the Property, has proposed that the principal use of the Property be converted to a day care center for children. Mrs. Edwards is proposing that there be no exterior structural alterations to the building which was built in 1969. Proposed interior alterations are only those necessary to convert the use to child care.

The Baltimore County Zoning Regulations ("B.C.Z.R.") do not address the applicability of residential transition area ("R.T.A.") standards (Section No. 1.B01.1) to the proposed use.

"Any lot which is in a recorded residential sub-division approved by the Baltimore County Planning Board or Baltimore County Planning Commission and which has been used, occupied, or improved in accordance with the approved subdivision plan; [Bill No. 100, 1970]."

BCZR 1.B02.3A

The structure at 3829 Rayton Road was improved in accordance with an approved sub-division plan. The record plat pursuant to that plan is recorded among the Land Records of Baltimore County at OTG 31, Page 95.

In a similar situation, the Board of Appeals for Baltimore County concluded that a property was not subject to residential transition area standards where no exterior alteration occurred. In re: Petition for Special Exception, F & S Limited Partnership, Case No. 84-52-X. This ruling was upheld by the Court of Special Appeals of Maryland in an unreported decision. Southland Hills Improvement Association of Baltimore County, Inc., et al. v. F & S Limited Partnership, No. 716, September Term, 1985, filed January 30, 1986.

Testimony will be offered that the appellant will not be altering the structure of the existing development. Therefore, residential transition area standards do not apply to the case at hand.

In addition, the Baltimore County Zoning Commissioner has applied a policy that a change in use to an existing building, where there are no physical changes

to the structure, is not subject to residential transaction area standards. An administrative practice is entitled to great weight in interpreting a statute. "It is well settled that unvarying construction of the law by the agency charged with its enforcement over a long period of time is entitled to great weight and should not be disregarded except for the strongest and most urgent reasons." State Department of Assessment and Taxation v. Greyhound Company, 271 Md. 575, 589 (1973). See also, Maryland National Bank v. State Department of Assessment and Taxation, 57 Md.App. 269, 271 (1984); State Election Board v. Billheimer, 72 Md.App. 578, 591 (1987).

It is therefore respectfully submitted that under the construction applied to Baltimore County Zoning Regulations by the Maryland Court of Special Appeals, this Board of Appeals and the Baltimore County Zoning Commissioner, the property is not subject to RTA requirements.

*Robert A. Hoffman*  
ROBERT A. HOFFMAN  
Cook, Howard, Downes & Tracy  
210 Allegheny Avenue  
P.O. Box 5517  
Towson, Maryland 21204  
301-823-4111  
Attorney for the Appellant

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 28<sup>th</sup> day of July, 1988, a copy of the foregoing Memorandum of Law of Gertrude J. Edwards was delivered to Phyllis C. Friedman, People's Counsel, 111 West Chesapeake Avenue, Towson, Maryland 21204.

*Robert A. Hoffman*  
ROBERT A. HOFFMAN

Whether the RTA issue raised by Mrs. Edwards.

**Issue**

Whether the residential transition area standards apply to residential property converted to a day care center, where there are no exterior changes to the structure.

**Conclusion**

No. The residential transition area provisions do not apply to developments existing (as described in BCZR Section 1.B02.3) at the time of the enactment of Bill No. 100 implementing these provisions.

**Discussions**

The property is a single detached residential build whose existence dates from 1969 and precedes the inact. of BCZR Section 1B01.1 creating RTAs. The express language of the regulation states:

"The provisions of Sub-subparagraphs a and b of this subparagraph shall not apply to existing developments as described in Sub-paragraph A.1 of Subsection 1B02.3, nor to subdivision tracts for which tentatively approved plans remain in effect as described in Subparagraph A.2 of said subsection. [Bill No. 100, 1970; No. 124, 1981]."

BCZR 1.B01.B.1.d

The developments described in Sub-paragraph A.1 or section 1B02.3 are:

IN RE: \* BEFORE THE  
PETITION FOR SPECIAL \* COUNTY BOARD OF  
EXCEPTION OF \* APPEALS OF  
GERTRUDE J. EDWARDS \* BALTIMORE COUNTY  
3827 RAYTON ROAD \*  
RANDALLSTOWN, MD 21133 \* Case No. 88-283-XA  
\* \* \* \* \*

MEMORANDUM IN SUPPORT OF MOTION FOR RECONSIDERATION

Appellant Gertrude Edwards, by her attorneys Robert A. Hoffman and Deborah C. Dopkin, submits this Memorandum in support of her Motion requesting the Board to Reconsider a condition contained in its Order dated December 8, 1988. That Order granted a special exception for a Class B group child care center, and the condition in question limited the maximum number of children to no more than fifteen at any time.

I. BACKGROUND

Mrs. Edwards filed a Petition for Special Exception and a Petition for Zoning Variance to operate a Class B group child care center on residential property owned by her and located at 3829 Rayton Road, Randallstown, Maryland. A hearing was held before this Board on July 28, 1988; and a continuation of the hearing was held on November 17, 1988 for the sole purpose of considering certain traffic issues (i.e., movement of certain "road posts" and an appropriate drop-off area for children).

An expert witness, Catherine Drayton, Regional Manager of the Office of Child Care Licensing for the State of Maryland, Department of Human Services, testified at the July 28 hearing

that the Edwards property is an appropriate site for a child care center for between twenty and thirty-five children.

Another expert witness, Mickey A. Cornelius, a traffic engineer, testified at the July 28 hearing that the traffic and parking configuration proposed by Mrs. Edwards posed no safety problem for a child care center serving twenty to thirty-five children. Gregory Jones, of the Baltimore County Bureau of Traffic Engineering, echoed this testimony at the November 17 hearing. No expert testimony regarding the number of children or regarding traffic safety was presented to contradict the testimony of Mrs. Drayton, Mr. Cornelius, or Mr. Jones.

At the continuation of the hearing on November 17, over the objection of counsel for Mrs. Edwards, the Board permitted witnesses to testify on a variety of topics unrelated to the specific traffic issues that were identified as the subject of the continued hearing. Mrs. Edwards was not able to rebut this testimony, because the only expert witness present on her behalf at the November hearing was, quite understandably, a traffic expert.

On December 8, 1988 this Board rendered its Order granting Mrs. Edwards a Special Exception and Variance, subject to two conditions. One of these conditions limited the maximum number of children to be enrolled in the day care center to no more than fifteen at any time.

Mrs. Edwards filed a Motion for Reconsideration in which she requested that the Board reconsider its Order after a hearing at

2

which she could present further testimony regarding the issue of the appropriate number of children to be enrolled; her request for an additional hearing was denied, but the Board permitted the submission of this Memorandum.

Based upon all of the testimony presented on both July 28 and November 17, the Board clearly made a mistake or inadvertently limited the number of children at the child care center to fifteen. Such a limitation could only have resulted from a mistaken failure to consider all of the testimony.

II. DISCUSSION

A. The Maryland Court of Appeals has indicated repeatedly that, where a statute or ordinance gives an administrative body the power of reconsideration or rehearing, that body may reopen a decision it has made to correct errors. See Redding v. Board of County Commissioners, 263 Md. 94, 111 (1971); Kay Construction Co. v. County Council, 227 Md. 479, 485 (1962).

The Baltimore County Charter §603 authorizes the County Board of Appeals to adopt rules of practice and procedure. The Baltimore County Code incorporates the Board's rules as Appendix C. Rule 10 provides the Board with revisory power over an order "in the event of fraud, mistake or irregularity."

Though the term "mistake" has been narrowly construed, a mistake or inadvertence by a clerk may be sufficient to warrant the reopening of an order. May v. Wolvington, 69 Md. 117, 122 (1888) cited in Hughes v. Beltway Homes, Inc., 276 Md. 382, 387-

3

88 (1975). Such a mistake must have occurred in inserting the number fifteen as a restriction on the number of children.

B. An irregularity that will permit the exercise of revisory power means an irregularity of process or procedure. Hughes v. Beltway Homes, supra, 276 Md. at 388; Weitz v. MacKenzie, 273 Md. 628 (1975); See also Mutual Benefit Society of Baltimore, Inc. v. Haywood, 257 Md. 538 (1970). Irregularity is the "doing or not doing of that...which, conformable to the practice of the court, ought or ought not to be done." Weitz v. MacKenzie, supra, 273 Md. at 631. To have permitted testimony on November 17 with respect to matters other than the narrow and specific traffic issues could not fairly be rebutted identified as the subject of the continued hearing -- evidence that constituted an irregularity of procedure that warrants reconsideration and revision of the Order.

Because of the mistake or irregularity discussed above, the Board should review all of the evidence adduced at the hearing to determine whether the evidence supports the Board's December 8 limitation on the number of children. Mrs. Edwards suggests that such a review can lead to but one conclusion -- that the limitation was mistaken or the result of irregularity.

Mrs. Catherine Drayton testified before the Board as an expert in child care. Her testimony established the appropriate number of children that the subject location could support, as the following excerpts from the July 28 transcript reveal:

4

BY MR. HOFFMAN:

Q. How many children would you expect this facility to accommodate?

A. It's difficult to say without going in and measuring...or without saying how many children in certain age groups she'll have. But I anticipate the range will be 20 to 35 children.

(Tr. 12, lines 6-12)

Upon cross examination by People's Counsel Mrs. Friedman:

Q. Now, what would be your opinion the maximum number of children that the proposed house would hold?

A. I am repeating a number that comes from my file when "Fire" and I had been at the building. The program was to be limited to the first floor and some available space on the lower level, the basement level, which open out into the yard. If both those areas are in use, there's a potential for 20 to 35 children. The final number cannot be determined until the place is actually equipped for children, and then we can come up with an available space for the children to move into.

Q. Could it be more than 35 children?

A. No.

(Tr. 17 to Tr. 21, line 8)\*

There was further, uncontradicted testimony at the July hearing from Mrs. Edwards' traffic expert that, even if forty children were enrolled, the residential character of Rayton Road would not be impaired:

BY MR. HOFFMAN:

Q. Can you tell me what factors you considered in conducting this study and what that study entailed?

A. ...So it doesn't equate to one trip for each child coming in and out of the center.

\* Transcript pages attached.

5

But even if this was the case, it would generate a maximum of 40 cars in and 40 cars out, which would be slightly of 160 cars during the day. And that, add that to the 200 existing daily trips, and you still come out with about 360 average daily traffic volume along Rayton Road.

This is actually well [within] the guidelines of residential characteristics.

(Tr. 53, lines 6 to 15)

Q. Did your study show what -- from a traffic safety standpoint -- the impact of dropping off these children at these two locations?

A. I don't see any safety problems. The dropping off, especially -- in my opinion -- this area is an excellent location for a day care center with the timber piers there.

(Tr. 56, lines 12 to 18)

Q. Are there any factors unique about this neighborhood that you observed that would alter your opinion that there's no adverse impact on traffic safety?

A. No, I don't think there's any adverse impact.

(Tr. 65, lines 17 to 20)

Similar testimony was presented at the November 17 hearing by the County's own traffic engineer, Gregory Jones. The transcript of the November hearing states:

BY MRS. DOPKIN

Q: Whether or not the posts are relocated, do you feel that the installation of the parking pad as proposed would provide a safe area for loading and unloading children?

A: Yes, I do.

(Tr. 6, lines 17 to 21)

Upon cross examination, this testimony was confirmed.

BY MRS. FRIEDMAN

6

Q. But in your opinion, this pad will create ample location where the children would be dropped off and picked up in a safe fashion?

A. Yes.

(Tr. 10, lines 8 to 11)

Thus, the testimony demonstrated that Mrs. Edwards' home could properly and safely accommodate between twenty and thirty-five children.

An administrative agency must observe the basic rules of fairness as to the parties appearing before it. The Maryland Court of Appeals has stated that "due process may be violated if no opportunity is provided to challenge the evidence by cross-examination or rebuttal." Schultz v. Pritts, 291 Md. 1, 7 (1981); Rogers v. Radio Shack, 271 Md. 126 (1974); Temmink v. Board of Zoning Appeals for Baltimore County, 205 Md. 489 (1954).

The July 28 hearing concluded with the Board's granting a continuance to give Mrs. Edwards and the County's Bureau of Traffic Engineering an opportunity to work out an alleged traffic problem. (Tr. 117)

On November 17, upon reconvening the hearing, the Board summarized the July 28 proceeding, as follows:

BY THE CHAIRMAN:

At the conclusion of that day's hearing, a continuance was agreed upon by all parties in the hope that the traffic engineer for Baltimore County and the county people could work out a problem -- if memory serves me right -- regarding some pilings in the middle of the road that affected the traffic flow. It is certainly not necessary to take all that testimony over again.

(Tr. 3, lines 4 to 10, emphasis added)

7

Nonetheless, People's Counsel asked that three members of the community be permitted to testify to make a "few additional comments." (Tr. 4, lines 12 - 16) The Chairman acquiesced, so long as the "testimony is not repetitive and cumulative." (Tr. 4, lines 17 to 19)

Subsequently, three members of the community spoke and, over the objections of Appellant's counsel, directed comments to the Board that were unrelated to the narrow traffic issues before the Board. The transcript reveals that Mrs. Edwards could not refute the testimony because of the absence of appropriate expert witnesses. (Tr. 39, lines 7 to 11)

CONCLUSION

The condition limiting the maximum number of children to be enrolled at the child care center was a mistake justifying revision of this Board's Order. Further, the admission on November 17 of testimony that Mrs. Edwards had no reason to anticipate and no opportunity to rebut constitutes a procedural irregularity sufficient to permit, indeed to compel, this Board to exercise its revisory powers.

Accordingly, Appellant requests that the Board review its December 8, 1988 Order and revise the Order to provide a restriction on the number of children enrolled in the day care center that reflects the testimony presented (i.e., the day care

8

center will support at least twenty and no more than thirty-five children).

Robert A. Hoffman  
Cook, Howard, Downes & Tracy  
210 Allegheny Avenue  
P. O. Box 5517  
Towson, Maryland 21204  
(301) 823-4111  
Attorney for Appellant

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of July, 1988, a copy of the foregoing Memorandum in Support of Motion for Reconsideration was mailed, postage prepaid, to Phyllis Cole Friedman, Esquire, People's Counsel for Baltimore County, 111 West Chesapeake Avenue, Towson, Maryland 21204.

Robert A. Hoffman

MEM00099.DCD

IN RE: \* BEFORE THE  
PETITION FOR SPECIAL \* COUNTY BOARD OF  
EXCEPTION OF \*  
GERTRUDE J. EDWARDS \* APPEALS OF  
3827 RAYTON ROAD \*  
RANDALLSTOWN, MD 21133 \* BALTIMORE COUNTY  
\* Case No. 88-283XA

#### MOTION FOR RECONSIDERATION

Gertrude Edwards, Appellant, by Robert A. Hoffman and Cook, Howard, Downes and Tracy, her attorneys, files this Motion as follows:

1. Appellant filed a Petition for Special Exception and a Petition for Zoning Variance to operate a class B group child care center on residential property owned by her and located at 3829 Rayton Road, Randallstown, Maryland.
2. A hearing was held before this Board on July 28, 1988 and a continuation thereof was held on November 17, 1988 for the sole purpose of considering traffic issues.
3. An expert witness, Catherine Drayton, Regional Manager of the Office of Child Care Licensing for the State of Maryland, Department of Human Services, presented testimony at the hearing before this Board on July 28, 1988 that the property is an appropriate site for a child care center for between twenty to thirty-five children.
4. An expert witness, Mickey A. Cornelius, a traffic engineer, presented testimony at the hearing on July 28 and Gregory Jones, of the Baltimore County Bureau of Traffic

Engineering presented testimony at hearing on November 17 that the proposed traffic and parking configuration posed no safety problem for a child care center serving twenty to thirty-five children.

5. No expert testimony regarding the number of children or traffic safety was presented which contradicted the testimony of Mrs. Drayton, Mr. Cornelius or Mr. Jones.

6. On December 8, 1988 this Board rendered its Order granting the Special Exception and Variance subject to two conditions, one of which limits the maximum number of children enrolled in the day care center to no more than fifteen at any time.

7. The condition limiting the maximum number of children who may be enrolled at the day care center is contrary to the evidence adduced at the hearing.

WHEREFORE, Appellant respectfully requests that this Board reconsider its Order of December 8, 1988 after a hearing pursuant to which further testimony may be presented regarding the sole issue of the appropriate number of children to be enrolled in the day care center.

Robert A. Hoffman  
Cook, Howard, Downes & Tracy  
210 Allegheny Avenue  
P. O. Box 5517  
Towson, Maryland 21204  
(301) 823-4111  
Attorney for Appellant

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of January, 1989, a copy of the foregoing Motion For Reconsideration was mailed, postage prepaid, to Phyllis Cole Friedman, Esquire, People's Counsel for Baltimore County, 111 West Chesapeake Avenue, Towson, Maryland 21204.

Robert A. Hoffman

MOTN0051.DCD

6/02/88 -Notice sent to following re hearing set for Thursday, July 28, 1988 at 10:00 a.m.:

Robert A. Hoffman, Esq.  
Deborah Dopkin, Esq.  
Gertrude Edwards  
STV/Lyon Assoc  
Lawrence Seng  
Don Kibble  
P. Friedman, Esq.  
P. David Fields  
James G. Howell  
J. Robert Haines  
Ann M. Nastarowicz  
James E. Dyer  
Docket Clerk -Zoning  
Arnold Jablon, County Attorney

7/28/88 -Per WTH: We have completed taking testimony from all witnesses in this case. At the close of testimony, both counsel requested a thirty-day continuance in order to investigate numerous solutions to the traffic and parking situation. The Board will not issue an order for thirty days from this date unless notice of this agreement is received by this Board. The ultimate decision is not to be predicated solely upon this agreement. WTH

9/08/88 -Notice sent to following re hearing set for Thursday, November 17, 1988 at 10:00 a.m. to "conclude testimony and argument" per letter from PC to protestants.

Robert A. Hoffman, Esq.  
Deborah Dopkin, Esq.  
Gertrude Edwards  
CTV /Lyon Assoc.  
Lawrence Seng  
Don Kibble  
Phyllis C. Friedman, Esq.  
P. David Fields  
Pat Keller  
J. Robert Haines  
Ann M. Nastarowicz  
James E. Dyer  
Docket Clerk -Zoning  
Arnold Jablon, County Attorney

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3333

J. Robert Haines  
Zoning Commissioner

May 2, 1988

Baltimore County Board of Appeals  
Old Courthouse, Room #205  
Towson, Maryland 21204

RE: Petition for Special Exception and Variance  
S/E corner Rayton Road and Kings Point Road  
(3829 Rayton Road)  
2nd Election District, 2nd Councilmanic District  
Gertrude J. Edwards - Petitioner  
Case No. 88-283XA

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on April 8, 1988 by Robert A. Hoffman. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines  
J. ROBERT HAINES  
Zoning Commissioner

JRH:cer

Enclosures

cc: Deborah C. Dopkin, Attorney for Petitioner  
210 Allegheny Avenue, Towson, Md. 21204

Robert A. Hoffman, Attorney for Petitioner  
210 Allegheny Avenue, Towson, Md. 21204

File

Revised Letter (original 4/27/88) SS:11 4-14 001

RECEIVED  
COUNTY BOARD OF APPEALS

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3333

J. Robert Haines  
Zoning Commissioner

April 27, 1988

Baltimore County Board of Appeals  
Old Courthouse, Room #205  
Towson, Maryland 21204

RE: Petition for Special Exception and Variance  
S/E corner Rayton Road and Kings Point Road  
(3829 Rayton Road)  
2nd Election District, 2nd Councilmanic District  
Gertrude J. Edwards - Petitioner  
Case No. 88-283XA

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on April 8, 1988 by Robert A. Hoffman. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. ROBERT HAINES  
Zoning Commissioner

JRH:cer

Enclosures

cc: Deborah C. Dopkin, Attorney for Petitioner  
210 Allegheny Avenue, Towson, Md. 21204

Robert A. Hoffman, Attorney for Petitioner  
210 Allegheny Avenue, Towson, Md. 21204

File

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

RE: GERTRUDE J. EDWARDS PETITION FOR SPECIAL EXCEPTION AND VARIANCE  
3829 RAYTON ROAD. CASE NO. 88-283XA. HEARING BEFORE ZONING  
COMMISSIONER JANUARY 28, 1988. REQUEST DENIED MARCH 17, 1988

Dear Mr. Hackett:

With reference to the above listed case, it is my understanding that the Petitioner, Gertrude J. Edwards, is appealing the zoning Commissioner's decision denying her request for a Zoning Exception and Variance to permit a Class B Group Day Care Center to be established at 3829 Rayton Road, Randallstown, Md.

I am one of the Rayton Road residents who, at the January 28 Hearing, represented those Rayton Road residents (over 80 percent) who opposed the establishment of the Day Care Center.

If another Hearing is to be held on an appeal of the original decision, I would appreciate being notified of the date, time, location, and any other pertinent information.

The Rayton Road residents are not an organized group nor are we represented by counsel. In view of our unfamiliarity with the legal procedures in these type cases, it is important that we kept informed so that we can continue our efforts to protect our genuine interests in maintaining the residential integrity of our community.

Thank you for your consideration.

Sincerely yours,

Lawrence E. Seng  
3802 Rayton Road  
Randallstown, Md. 21133  
Tel. 922-8169

RECEIVED  
COUNTY BOARD OF APPEALS  
MAY 27 1988

1/24/88 Motion for Reconsideration received by Board from Deborah C. Dopkin on behalf of Petitioner.

1/11/88 Letter to D. Dopkin and interested parties: Motion for Reconsideration and receipt of further testimony denied; however, granted 30 days for written argument re actual testimony and evidence received at hearing. Appeal period stayed to thirty days from date of Board's Order affirming or amending its original Opinion/Order.

COUNTY BOARD OF APPEALS  
69 JAN 24 AM 11:49

Lawrence E. Seng  
3902 Rayton Road  
Randallstown, Md. 21133  
January 23, 1989

William T. Hackett, Chairman  
County Board of Appeals  
County Office Building, Room 315  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

RE: Case No. 85-283-XA  
Gertrude J. Edwards

Dear Mr. Hackett:

I am in receipt of copy of Motion for Reconsideration of your Board's decision on Case No. 85-283-XA, and copy of your January 11, 1989, letter to Deborah C. Dopkin, Esq., etc., which denies the Reconsideration Motion but grants 30 days for written arguments by both parties to be presented for the Board's consideration of a possible amending order.

I am responding on behalf of the protesting residents of Rayton Road. With reference to the Motion for Reconsideration, we take exception specifically to Sections 5 and 7. Section 5 states: "No expert testimony regarding the number of children or traffic safety was presented which contradicted the testimony of Mrs. Drayton, Mr. Cornelius or Mr. Jones".

It is our distinct recollection that lengthy, comprehensive testimony was presented by the protestants at both hearing sessions with regard to the traffic hazards and, in particular, the inadequate space in a one family dwelling for the large number of children which would be authorized under a Class B Day Care Center license. Evidently Hoffman, et al, feel we do not qualify as experts and thus our testimony can be ignored. However, one does not have to be an "expert" to recognize the obvious, that is, that the space standards for Day Care Center space utilization under the provisions of the Annotated Code of Maryland, etc., Group Day Care Centers published in July 1987 (Title 10, Chapters .09, .13, .15, .16, .18(A), and other pertinent provisions) clearly limit the number of authorized children to considerably less than that requested by Edwards.

In view of the above, how can the opinions of the "experts" testifying on behalf of the proponent be considered valid when they appear to be contrary to the provisions of the Maryland Day Care Center laws? We insist, therefore, that our well documented objections based on the inadequacy of building space and outside play-ground space are well founded and consistent with the Code of Maryland Regulations.

The published Hearing summaries, we feel, are inadequate and have a tendency to present a false impression that the preponderance of evidence weighs in favor of the proponents when such is not in accordance with the facts. For this reason, before any amended decision is considered, we request that we be provided a complete verbatim transcript of the entire proceedings of July 28 and November 17, 1988, so that, if necessary, we will be in a better position to refute the Hoffman, et al contention that no expert testimony regarding the number of children or traffic safety was presented to contradict the testimony of the proponent's experts.

L. Seng letter of 1/23/89 re Case No. 85-283-XA (cont'd)

P. 2

It follows that Section 7 of the Motion for Reconsideration is in error in its conclusion that the condition limiting the maximum number of children who may be enrolled at the Day Care Center is contrary to the evidence adduced at the hearing. On the contrary, the record will show that sufficient evidence was presented at the hearings to substantiate the fifteen child limitation and a verbatim transcript of the proceedings will confirm this.

I want to say with regard to my personal testimony at the hearings, that it is my distinct recollection that on July 28 I read into the record a considerable portion of my rather lengthy (B.C.Z.A., Sec. 502.1) testimony much of which covered inadequate space. During this testimony, the court reporter at one point had to ask me to slow down so she could get it all. Also, on November 17, I testified for about ten minutes on inadequate space and traffic hazards. However, when the summaries of the proceedings were published, my testimony was given short shrift and, for each date, about one sentence. Perhaps this is why Hoffman, et al, feel there was no testimony to refute the opinions of their experts.

Thank you in advance for your consideration of our clarifying arguments and requests. Please keep us informed in the event any amended decision would constitute grounds on our part for an appeal.

Sincerely yours,

Lawrence E. Seng and  
Rayton Road residents

cc: Phyllis C. Friedman, Esq.

CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

85-283-XA

Date of Posting: May 2 - 88

District: 2nd  
Posted for: Gertrude J. Edwards  
Petitioner: Gertrude J. Edwards  
Location of property: 3802 Rayton Road  
Location of Sign: 3802 Rayton Road  
Remarks: 1/2 Note  
Posted by: [Signature]  
Number of Signs: 1

LAW OFFICES  
COOK, HOWARD, DOWNES & TRACY  
210 ALLEGHENY AVENUE  
P.O. BOX 8817

TOWSON, MARYLAND 21204

JAMES H. COOK  
JOHN B. HOWARD  
DAVID D. DOWNES  
DANIEL G. TRACY, JR.  
JOHN H. ZIMMER  
JOSEPH C. WICK, JR.  
HENRY B. PECK, JR.  
HERBERT A. GORDON, III  
THOMAS L. HUSSEIN  
C. CARP DELEY, JR.  
W. RAND HILL, II  
GEORGE A. REYNOLDS, III  
ROBERT A. HOFFMAN  
CYNTHIA M. HARRIS

April 7, 1988

494-9162

HAND DELIVERY

J. Robert Haines, Esquire  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

Re: Notice of Appeal  
Findings of Fact and Conclusions of Law  
dated March 17, 1988  
Zoning Case No. 85-283XA

Dear Mr. Haines:

Please note an Appeal to the County Board of Appeals of Baltimore County on behalf of Gertrude J. Edwards, Appellant, whose address is 3827 Rayton Road, Randallstown, Maryland 21133, from the Findings of Fact and Conclusions of Law referenced above.

Enclosed is a check in the amount of \$100.00 (One-Hundred Ninety Dollars) to cover the cost of filing.

Thank you.

Very truly yours,

Robert A. Hoffman

RAH/AAM/sab

cc: Gertrude J. Edwards  
Deborah C. Dopkin, Esquire

RECEIVED  
APR 15 1988  
ZONING OFFICE

COPY

1 IN THE MATTER OF \* BEFORE THE  
2 GERTRUDE J. EDWARDS \* COUNTY BOARD OF APPEALS  
3 \* OF BALTIMORE COUNTY  
4 \* November 17, 1988  
5 \* \* \* \* \*  
6 The above-entitled cause came on for hearing  
7 before the County Board of Appeals of Baltimore County at  
8 the County Office Building, Towson, Maryland 21204 at 10  
9 o'clock a.m., November 17, 1988.  
10 \* \* \* \* \*  
11 BOARD MEMBERS: WILLIAM T. HACKETT, CHAIRMAN  
12 LAWRENCE E. SCHMIDT  
13 ARNOLD G. FOREMAN.  
14 APPEARANCES: DEBORAH C. DOPKIN, Esquire  
15 ROBERT A. HOFFMAN, Esquire.  
16 On behalf of Appellant/Petitioner  
17 PHYLLIS COLE FRIEDMAN, Esquire  
18 People's Counsel for Baltimore County  
19  
20 Reported by:  
21 C.E. Peatt

BOARD OF APPEALS

1 And as far as at the protestants go, we had  
2 Edward Dudley, Sylvia Johnson and Gregory Jones, the  
3 traffic engineer for Baltimore County.  
4 At the conclusion of that day's hearing, a  
5 continuance was agreed upon by all parties in the hope  
6 that the traffic engineer for Baltimore County and the  
7 county people could work out a problem -- if memory serves  
8 me right -- regarding some pilings in the middle of the  
9 road that affected the traffic flow. It is certainly not  
10 necessary to take all that testimony over again.  
11 Now, I don't know exactly where we are  
12 posture-wise. Who starts now?  
13 MR. HOFFMAN: I think Mrs. Friedman and I spoke  
14 earlier. I think we would want to call Gregory Jones back  
15 to the stand as probably part of our case.  
16 MR. SCHMIDT: Would that be to clear up the  
17 pilings?  
18 MR. HOFFMAN: It's really just a traffic  
19 question. It revolves to some degree around the pilings,  
20 but more specifically with regard to a traffic safety  
21 question in terms of dropping off the children.

BOARD OF APPEALS

1 MRS. FRIEDMAN: I have no objection to Mr.  
2 Hoffman presenting the revised plan. However, I would  
3 like to clear up the Board's conception of where we  
4 actually are.  
5 Despite the fact that efforts were made after we  
6 adjourned the last hearing to come to some agreement that  
7 the community would be satisfied with, and although it is  
8 my understanding -- I have not talked to Greg Jones --  
9 that the petitioners have addressed the traffic issue, I  
10 would like the Board to know and go on the record that the  
11 community does remain unalterably opposed to this  
12 proposal. And there are three individuals who are --  
13 actually there are nine people here from the community in  
14 opposition today, and three of those people have said they  
15 would like to make a few additional comments on this  
16 proposal.  
17 THE CHAIRMAN: As long as their testimony is not  
18 repetitive and cumulative, there's no reason they should  
19 not be allowed.  
20 MR. HOFFMAN: Ms. Dobkin is going to take  
21 testimony from Mr. Jones.

BOARD OF APPEALS

1 A. Yes, it does. It shows the proposed solution  
2 which was to put in a parking pad that would accommodate  
3 two vehicles to load and unload the children going to and  
4 from the day care center.  
5 Q. Was there also a note added to the plan  
6 addressing the location of the timber posts located in  
7 Rayton Road?  
8 A. Yes, that's correct. The petitioner agreed to the  
9 relocation of the timber posts to the right-of-way of  
10 Rayton Road at the -- well, just a technical description  
11 of where the posts would be relocated, but basically they  
12 would be relocated -- the petitioner agreed to relocate  
13 the existing timber posts to the east side of the property  
14 line of the day care center if the community would  
15 petition that, and if the community would want that, and  
16 that's something that the county could accept.  
17 Q. Whether or not the posts are relocated, do you  
18 feel that the installation of the parking pad as proposed  
19 would provide a safe area for loading and unloading  
20 children?  
21 A. Yes, I do.

BOARD OF APPEALS

1 other than to say that ideally it's best to get day care  
2 centers on roads with local traffic and minor roads, and  
3 not put them on major roads.

4 Q. Is a circular driveway better than a pad?

5 A. Well, that's certainly one possibility, to have a  
6 circular driveway. But in this case I don't believe that  
7 there would be enough room for that.

8 Q. But in your opinion, this pad will create ample  
9 location where the children could be dropped off and  
10 picked up in a safe fashion?

11 A. Yes.

12 Q. If those posts are not moved, this location of  
13 the pad will require that all traffic come through  
14 Southhall Road and through the entire development, is that  
15 correct?

16 A. That's correct.

17 Q. (MR. SCHMIDT) Mr. Jones, if these posts were  
18 moved, they would be moved so all traffic would more than  
19 likely come in through Kings Point Road, is that correct?

20 A. That's correct.

21 Q. To get access to the pad?

BOARD OF APPEALS

1 to add to what they have already said, Mr. Seng?

2 A. Only that Rayton Road is a hilly curvy, narrow  
3 dead-end street and doesn't meet the criteria outlined in  
4 the Annotated code, in my opinion.

5 Q. Is there any potential for hazards from fire,  
6 panic or other dangers?

7 A. Not that I'm aware of.

8 MR. HOFFMAN: Mr. Hackett, I am going to object  
9 to this line of questioning. I feel compelled now to bring  
10 in all the witnesses I put on at the last hearing to  
11 refute the testimony that I'm hearing now.

12 THE CHAIRMAN: All the testimony is Mr. Seng's  
13 opinion as to the relationship to 502.1.

14 MR. HOFFMAN: He's testified to each of these  
15 criteria previously.

16 THE CHAIRMAN: He also testified previously on  
17 502.1b and d, according to my notes.

18 MRS. FRIEDMAN: Then I will confine my question  
19 to asking him whether this proposed change in any way  
20 alleviates his concern that he previously expressed.

21 A. What proposed change was that?

BOARD OF APPEALS

COPY

1 IN THE MATTER OF  
2 GERTRUDE J. EDWARDS

\* BEFORE THE

\* COUNTY BOARD OF APPEALS

\* OF BALTIMORE COUNTY

\* July 28, 1988

\* \* \* \* \*  
The above-entitled cause came on for hearing  
before the County Board of Appeals of Baltimore County at  
the County Office Building, Towson, Maryland 21204 at 10  
o'clock a.m., July 28, 1988.

\* \* \* \* \*

11 BOARD MEMBERS:

WILLIAM T. HACKETT, CHAIRMAN

LAWRENCE E. SCHMIDT

ARNOLD G. FORMAN

15 APPEARANCES:

DEBORAH C. DOPKIN, Esquire  
ROBERT A. HOFFMAN, Esquire.  
On behalf of Appellant/Petitioner

PHYLLIS COLE FRIEDMAN, Esquire  
People's Counsel for Baltimore County

20 Reported by:  
21 C.E. Peatt

BOARD OF APPEALS

## CROSS EXAMINATION

2 BY MRS. FRIEDMAN:

3 Q. Mrs. Drayton, when you first came to Mrs.  
4 Edwards' property, did you look at both the corner house  
5 and this house as a proposed day care, or was it just this  
6 house that was always the proposed proposal?

7 A. This house was always the proposal. But I also  
8 looked at the house in which she lives. I believe there  
9 were some -- that she was concerned that programs -- the  
10 children would be brought over to her kitchen. There would  
11 be times when you do exchange the space. That's not  
12 particularly recommended, and we didn't pursue that.

13 I believe that my main concern was -- I entered  
14 that because I wanted to know -- I was familiar with the  
15 two sites, and I have been in her home. But her home is  
16 not considered at all as a day care center.

17 Q. Now, what would be your opinion the maximum  
18 number of children that the proposed house would hold?

19 A. I am repeating a number that comes from my file  
20 when "Fire" and I had been at the building. The program  
21 was to be limited to the first floor and some available

BOARD OF APPEALS

1 directly to an application process. Since that time there  
2 have been zoning changes in the zoning regulations that  
3 should have made her property available for day care. But  
4 we are having problems. Even now, we haven't gotten  
5 beyond the zoning issues.

6 Q. How many children would you expect this facility  
7 to accommodate?

8 A. It's difficult to say without going in and  
9 measuring until she's finally gotten it equipped, or  
10 without saying how many children in certain age groups  
11 she'll have. But I anticipate the range will be 20 to 35  
12 children.

13 Q. And as an expert in day care and all the  
14 facilities that you reviewed, do you have an opinion as to  
15 whether or not this is an appropriate location for a child  
16 day care center?

17 A. When I first looked at it I was very impressed.  
18 I was impressed by the site, because I have inspected no  
19 less than 25 centers in the course of my years here to  
20 develop into day care centers, and it's very, very  
21 difficult in Baltimore County, especially in a residential

BOARD OF APPEALS

1 space on the lower level, the basement level, which opens  
2 out into the yard. If both those areas are in use, there's  
3 a potential for 20 to 35 children. The final number  
4 cannot be determined until the place is actually equipped  
5 for children, and then we can come up with an available  
6 space for the children to move into.

7 Q. Could it be more than 35 children?

8 A. No.

9 Q. No matter what age the children were?

10 A. Well, toilet facilities also limit the capacity,  
11 and in order to have more than 35 she'd have to have three  
12 toilets available to the children. And she would probably  
13 have to operate several very small groups. I'm not so  
14 sure how she's going to arrange her groups, but she can't  
15 ever have more than 35 children.

16 Q. What is this, a second floor?

17 A. There is space upon the second floor, but the  
18 program doesn't require the use of the second floor for  
19 child care.

20 Q. How would the second floor be utilized?

21 A. The proposed plan is to use it for support space

BOARD OF APPEALS

1 engineer to multiply 35 times one -- you get 35 cars  
2 coming in and going out for that is entirely correct  
3 because there are multiple families, people who bring a  
4 couple kids to the day care center, and there are also  
5 times when people pick up neighbor's kids and stuff like  
6 that. So it doesn't equate to one trip for each child  
7 coming in and out of the center.

8 But even if this was the case, it would generate  
9 a maximum of 40 cars in and 40 cars out, which would be  
10 eighty cars in the morning, eighty cars in the evening, or  
11 a total of 160 cars during the day. And that, add that to  
12 the 200 existing daily trips, and you still come out with  
13 about 360 average daily traffic volume along Rayton Road.

14 That is actually well when the guidelines of  
15 residential characteristics. There is a number of  
16 different guidelines which state average daily traffic  
17 count characteristics of residential roads, and they vary  
18 from 1500 to 500 vehicles per day. I don't know any  
19 jurisdiction that argue less than 500 vehicles per day is  
20 other than residential in character.

21 Therefore, the volume of the traffic coming to

BOARD OF APPEALS

1 either side of the road. And there's a walk across the  
2 street. The other way to come on Kings Point Road, they  
3 pull up to the timber posts, get out, walk up to the  
4 facility. Then, again, most of the times during the  
5 kindercare counts, I don't know if it's a requirement, but  
6 the parent usually walks the child to the door and then  
7 the parent would come back, just back up around here, make  
8 a three-point turn and go back out, rather than trying to  
9 back out on the road where you're trying to look behind  
10 you. It's 30 feet wide here. It's very easy to make a  
11 three-point turn.

12 Q. Did your study show what -- from a traffic safety  
13 standpoint -- the impact of dropping off these children at  
14 these two locations?

15 A. I don't see any safety problems. The dropping  
16 off, especially -- in my opinion -- this area is an  
17 excellent location for a day care center with the timber  
18 piers there. You don't have any thru-volume along Rayton  
19 Road. You don't have any conflicts walking along the  
20 sidewalk with cars coming in the driveway. That would be  
21 the only possible conflict.

BOARD OF APPEALS

1 A. Correct. But, again, that would be more during  
2 the evening. When people start leaving for work, it's  
3 highly unlikely there's going to be many locations where  
4 cars are still going to be parked across from each other  
5 when the trips to the child care center are generated.

6 Q. Do you know where the school bus stop is for  
7 Rayton Road?

8 A. I don't know. I would assume it's either on  
9 Kings Point or down on Southhall. I would doubt the  
10 school bus comes through there, unless it's a little one.

11 Q. Do you know that?  
12 A. I don't know that for a fact. But they don't go  
13 down cul de sacs or dead end streets.

14 MRS. FRIEDMAN: I have no further questions.

#### REDIRECT EXAMINATION

15 BY MR. HOFFMAN:

16 Q. Are there any factors unique about this  
17 neighborhood that you observed that would alter your  
18 opinion that there's no adverse impact on traffic safety?

19 A. No, I don't think there's any adverse impact.  
20 Again, the street is a very low volume road. The day care

BOARD OF APPEALS

1 MR. HOFFMAN: May I have a moment?  
2 THE CHAIRMAN: Would counsel approval the Bench?  
3 (Discussion held at the Bench.)

4 MR. HOFFMAN: I'd like to move this case be  
5 continued, and the reason for the continuance is to give  
6 the petitioner and the Bureau of Traffic Engineering an  
7 opportunity to work on an appropriate solution to what has  
8 been alleged as a traffic problem.

9 The petitioner is in no means admitting there's a  
10 traffic problem. However, we would like the opportunity  
11 to further discuss the matter with the Bureau of Traffic  
12 Engineering.

13 THE CHAIRMAN: Now, we have heard all the  
14 testimony from all the witness, and it's a matter of  
15 record. The Board is inclined, because of the discussion  
16 up here, to grant the requested continuance, but to limit  
17 it in time so that if in 30 days you could come back to  
18 the Board and say "This is what we can do and this what we  
19 cannot do," or that "We cannot do anything," at which time  
20 the Board will then consider the testimony and evidence  
21 before it and make a decision on the same. Agreeable to

BOARD OF APPEALS

COUNTY BOARD OF APPEALS  
69 JUN 20 PM 3:07

January 18, 1989  
3906 Rayton Road  
Randallstown, Md. 21133

William T. Hackett, Chairman  
Baltimore County Board of Appeals  
County Office Building, Room 315  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Dear Mr. Hackett,

I was present at all of the hearings concerning Case No. 88-238-XA and while I believe that the testimony included all of the relevant facts, some conclusions which could reasonably be drawn, or results which could reasonably have been anticipated, were not explicitly stated. Therefore, and since a number of us continue to oppose the granting of a special exception for the proposed child care center, even with a 15-child limit, I offer the following:

The barrier which makes Rayton Road a dead end road has already been moved to the intersection of Rayton Road and Byers Court. Yesterday afternoon as I was driving up Rayton Road I had to wait while a UPS truck backed into an empty driveway to turn around. Until the relocation of the barrier, delivery trucks, school buses, moving vans, etc. have pulled part way into Byers Court and then backed into the barricaded end of Rayton Road to turn around. This maneuver is no longer possible due to the relocation of the barricade. The driveways are not wide enough to accommodate many trucks, and even if no person is ever injured by this practice, lawns, shrubs and newspaper mailboxes are obviously at risk. The safety of our property has already been "adversely affected."

If the proposed 18 X 18 foot parking pad is used as a parking space for the employee's cars, then it will not facilitate the three-point turn which must be executed by patrons of the child care center if they use the short end of Rayton Road. The pad can solve one problem or the other, but not both. Assuming that the employees use the parking pad for their cars, the use of the long end of Rayton Road is an attractive alternative to making the difficult three-point turn. Patrons using the long end of Rayton Road would enter Byers Court and turn around (without backing up) and upon exiting Byers Court would stop alongside the barricade to drop-off or pick-up children. When several cars arrive at the same time they would line up in a natural queue extending back into Byers Court. It's obvious that traffic in the lower end (the long end) of Rayton Road would be increased, and ANY increase in traffic in this narrow road where residents must back into or out of driveways would have an "adverse effect" on the safety of the residents and their property.

Very Truly Yours,  
Donald A. Kibble  
Donald A. Kibble

P.S. I learned this evening that Larry Seng is preparing a response to the Motion for Reconsideration on behalf of our group. He expects to meet with the group this Friday and have the response ready for mailing early next week.

P.P.S. It was my understanding that the barricade would be moved ONLY if requested by the residents of the neighborhood. We remain opposed to the day care center, and to the compromise which included the relocation of the barricade, and now feel that the barricade has been moved at the request of ONE resident, and against the wishes of a majority of neighborhood residents.

P.P.P.S. An article in tonight's Randallstown News mentions that Shirley Bennett WILL be the Director of the day care center and that she HAS completed the 64 credit hours required. This can't be true. Too little time has passed since we learned (in the first day of the hearing) that she had only 64 "clock" hours of class time (about 4 credit hours). She needed at least three full-time semesters of additional courses.

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

LAW OFFICES  
COOK, HOWARD, DOWNES & TRACY  
210 ALLEGHENY AVENUE  
P.O. BOX 5517

TOWSON, MARYLAND 21204

TOWSON (301) 823-4111

TELECOPIER (301) 821-0147

205 EAST BROADWAY

P.O. BOX 8

BEL AIR, MARYLAND 21014

BEL AIR (301) 838-8664

BALTIMORE (301) 879-1551

DIRECT DIAL NUMBER

(301) 494-9167

REPLY TO: TOWSON

February 10, 1989

William T. Hackett, Chairman  
County Board of Appeals of Baltimore County  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Re: Case No. 88-283-XA

Dear Mr. Hackett:

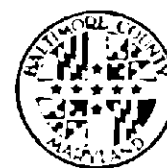
We are filing herewith our Memorandum in Support of Motion for consideration in the above-captioned matter in accordance with our letter of January 11, 1989.

Sincerely,

*Deborah C. Dopkin*  
Deborah C. Dopkin

DCD:new  
Enclosure  
cc: Gertrude J. Edwards

COPIES 0105369



County Board of Appeals of Baltimore County  
COUNTY OFFICE BUILDING, ROOM 315  
111 W. CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 887-3180

March 22, 1989

Robert A. Hoffman, Esquire  
COOK, HOWARD, DOWNES & TRACY  
Post Office Box 5517  
Towson, MD 21204

RE: Case No. 88-283-XA  
Gertrude J. Edwards

Dear Mr. Hoffman:

Enclosed is a copy of the Board's affirming Opinion and Order issued this date regarding the subject matter.

Sincerely,

*Kathleen C. Weidenhammer*  
Kathleen C. Weidenhammer  
Administrative Secretary

Encl.

cc: Deborah C. Dopkin, Esquire  
Gertrude J. Edwards  
STV/Lyon Associates  
Lawrence E. Seng  
Don Kibble  
Phyllis C. Friedman, Esquire  
P. David Fields  
Pat Keller  
J. Robert Haines  
Ann M. Mastarowicz  
James E. Dyer  
Docket Clerk -Zoning  
Arnold Jablon, County Attorney



County Board of Appeals of Baltimore County  
COUNTY OFFICE BUILDING, ROOM 315  
111 W. CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 887-3180

January 11, 1989

Deborah C. Dopkin, Esquire  
COOK, HOWARD, DOWNES & TRACY  
Post Office Box 5517  
Towson, MD 21204

RE: Case No. 88-283-XA  
Gertrude J. Edwards

Dear Ms. Dopkin:

The Board is in receipt of your Motion for Reconsideration of the Board's Opinion and Order in Case No. 88-283-XA. The Board's policy has been firmly established not to grant reconsideration of a case in which the testimony and evidence regarding the issue has been received. The Board has, however, in the past, with good reason, amended its original order to reflect some omission or misinterpretation of that evidence.

For these reasons, your Motion for Reconsideration and the taking of any further testimony is denied. The Board will, however, grant thirty (30) days for written argument by both parties to be presented for the Board's consideration, reference therein to reflect the actual testimony and evidence received at the hearing. If in the opinion of the Board said argument indicates error in the original Opinion and Order thereto, an amended order may be issued.

The Board will also notify all parties that the thirty days given for the presentation of written argument will stay the appeal date in this case to thirty days from the date of the Board's Order affirming or amending its original Opinion and Order.

Very truly yours,

*William T. Hackett*  
William T. Hackett, Chairman  
County Board of Appeals

WTH:kw  
cc: Phyllis C. Friedman, Esquire  
Robert A. Hoffman, Esquire  
Gertrude J. Edwards Mitchell  
Lawrence E. Seng  
Don Kibble

LAW OFFICES  
COOK, HOWARD, DOWNES & TRACY  
210 ALLEGHENY AVENUE  
P.O. BOX 5517

TOWSON, MARYLAND 21204

TOWSON (301) 823-4111

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205 EAST BROADWAY

P.O. BOX 8

BEL AIR, MARYLAND 21014

BEL AIR (301) 838-8664

BALTIMORE (301) 879-1551

DIRECT DIAL NUMBER

(301) 494-9167

REPLY TO:  
Towson

January 4, 1989

#### Hand Delivery

Baltimore County Board of Appeals  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: Petition for Special Exception and Variance  
S/E corner Rayton Rd. and Kings Point Rd.  
(3829 Rayton Rd.) Second Election District,  
Second Councilmanic District  
Gertrude J. Edwards - Appellant  
Case No.: 88-283XA

Dear Board:

Enclosed please find a Motion for Reconsideration in connection with the above-referenced case pursuant to Rule 10 of the Rules of Procedure of County Board of Appeals. A hearing to reconsider this matter will be most appreciated.

Very truly yours,

*Deborah C. Dopkin*  
Deborah C. Dopkin

AAM:DCD:bw  
Enclosure  
cc: Phyllis C. Friedman, People's Counsel  
Gertrude J. Edwards Mitchell  
Robert A. Hoffman, Esquire



County Board of Appeals of Baltimore County  
COUNTY OFFICE BUILDING, ROOM 315  
111 W. CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 887-3180

December 5, 1989

RECEIVED  
DEC 11 1989

The Honorable Paula C. Hollinger  
Senate of Maryland  
Senate Office Building, Room 306  
Annapolis, MD 21401-1991

RE: Case No. 88-283-XA  
Gertrude Edwards

Dear Senator:

The Board is in receipt of your recent correspondence regarding the subject case which was heard by this Board in November of 1988. On March 22, 1989, an Opinion and Order was issued by the Board of Appeals which affirmed the Board's original decision of December 8, 1988 granting the requested special exception and restricting to 15 the number of children permitted on the site at any one time. This file was then closed by this office in April of 1989.

In response to your letter, should Mrs. Edwards wish to amend the special exception granted by this Board and increase the number of children permitted, a Petition for Special Hearing must be filed with the Zoning Office by Mrs. Edwards. The Board of Appeals no longer has jurisdiction in this matter, and the Order issued on March 22, 1989 affirming the board's original decision of December 8, 1988 is final.

If we can provide any additional information or explanation regarding this case, please don't hesitate to contact this office.

Very truly yours,

William T. Hackett  
William T. Hackett, Chairman  
County Board of Appeals

cc: W. Carl Richards, Jr.

RECEIVED  
DEC 11 1989

GERTRUDE J. EDWARDS, CRNA, BA, MPA  
3827 RAYTON ROAD  
RANDALLSTOWN, MARYLAND 21133  
(301) 655-5327

EDUCATION

1955 - 1958

Medical College of Virginia School of Nursing, graduated September, 1958.

1959 - 1961

St. Joseph Hospital School of Anesthesia, graduated March, 1961.

1976 - 1979

University of Baltimore, Bachelor of Arts Degree, June, 1979.

1979 - 1985

University of Baltimore, Graduate School; Major - Public Administration, Concentration Health Policy.

EXPERIENCE

1973 - 1979

Captain, U.S. Airforce Reserves (Nurse Corps)  
Instructor, Cardio-pulmonary Resuscitation, for the Red Cross.

1977 - 1979

Guest Lecturer, Community College of Baltimore, to Operating Room Technicians, "The Administration of Anesthesia and: The Responsibility of the O.R.T. to the Anesthetized Patient."

1978

Guest Lecturer for Home-makers of America, "The Triangle of Success", Mayo High School, Darlington, South Carolina, April

1981

Chairperson, Maryland Association of Nurse Anesthetists Fall Meeting, Gaithersburg, Maryland, October.

1981

Guest Lecturer, Dunbar High School, Nurse Anesthesia Career Day, "The Role of the Nurse Anesthetist", April.

1982

Guest Lecturer as a member of the Health Team, Provident Hospital, (April).

1982

Provident Hospital, Chief Nurse Anesthetist  
Duties: Administration of Anesthesia, scheduling of cases, pre- and postoperative rounds, ordering of supplies.  
Lecturing to student nurses, supervision and instruction of anesthesia to dental residents.

EMPLOYMENT

March, 1961 - August 1972

Provident Hospital, Chief Nurse Anesthetist  
Duties: Administration of Anesthesia, scheduling of cases, pre- and postoperative rounds, ordering of supplies.  
Lecturing to student nurses, supervision and instruction of anesthesia to dental residents.

September, 1972 - December, 1978

Staff Anesthetist, Lutheran Hospital  
Duties: Administration of anesthesia (General and Spinals)

EMPLOYMENT (CON'T)

February, 1975 - July, 1979

Coordinator between Nurse Anesthetists and Hospital Administrator. Bargaining for salaries, vacation, sick leave and educational leave. Responsible to Chief of Department, Hospital Administrator for anesthesia coverage by Nurse Anesthetists.

Staff Anesthetist, Provident Hospital  
Duties: Coordinator of anesthesia coverage by nurse anesthetists. Responsible to Medical Director for complete anesthesia coverage for the Hospital by Nurse Anesthetists, 4:00 p.m. - 8:00 a.m., weekdays, weekends and holidays. Pre-post operative rounds, evaluation of patients for administration of anesthesia for elective and emergency surgery. Administration of anesthesia for all emergency cases, non-elective and obstetrical cases. Resuscitation of all patients in the hospital.

A. Emergency Room  
B. Intensive Care  
C. Pediatrics  
D. Nursery  
E. Recovery Room  
F. Delivery Room

Evaluation of patients immediately after surgery, and discharging them from the Recovery Room. Work with Inhalation Therapy Department placing patients on Ventilators. Ordering or borrowing emergency equipment from other sources (hospitals, etc.) to cover Provident Hospital.

December, 1979 - Present

Member of Medical Staff, Department of Anesthesiology, The Johns Hopkins Hospital.  
Duties: Administration of all types of anesthesia, blocks, general spinals, for all types of surgery. Insertion of arterial catheters, assists in insertion of central venous pressure catheters. Interpretation and monitoring of special equipment used for these procedures. Supervision and instruction of anesthesia to students in the School of Anesthesia.

A. Nurses  
B. Residents  
C. Oral Surgeons  
D. Interns  
E. Medical Students

Cardiopulmonary resuscitation instructor for the hospital employees.

(3)

CONTINUING EDUCATION IN ANESTHESIA

May, 1979 - December, 1979

Maryland Association of Nurse Anesthetists Spring Meeting, Salisbury, Maryland.

December, 1979

Anesthesia Seminar, Miami Beach, Florida.

May, 1979

Three day workshop, Aberdeen Proving Ground, Aberdeen, Maryland, sponsored by the American Red Cross, "Cardio-pulmonary Resuscitation".

July, 1979

Anesthesia workshop, Lancaster, Pennsylvania, "Anesthesia For the Hypertensive and Diabetic Patient".

January, 1979 - Present

Lecturer and participant in Morbidity and Mortality Conference, The Johns Hopkins Hospital. This conference is held each Thursday from 6:30 a.m. to 8:30 a.m.

I have my card from the American Association of Council on Recertification of Nurse Anesthetists. This card certifies that I have met all the requirements for recertification and may be known as a Certified Registered Nurse Anesthetist (CRNA).

PERSONAL DETAILS

Height: 5'4"  
Weight: 137 pounds  
Health: Excellent  
Marital Status: Single - one child  
Nationality: Afro-American  
Hobbies: Skiing, gardening, sewing

AFFILIATION

Member of Maryland Association of Nurses  
Member of American Association of Nurse Anesthetists

APPEAL

Petition for Special Exception and Variance  
S/E corner Rayton Road and Kings Point Road  
(3829 Rayton Road)  
2nd Election District - 2nd Councilmanic District  
Gertrude J. Edwards, Petitioner  
Case No. 88-283XA

Gertrude J. Edwards, Petitioner  
3827 Rayton Rd. (21133)

STV/Lyon Associates  
21 Governor's Ct. (21207)

Lawrence E. Seng  
3902 Rayton Rd. (21133)

Don Kibble  
3906 Rayton Road  
Randallstown, MD 21133

Phyllis Foxworth, Esq.

Deborah C. Dopkin, Attorney for Petitioner  
210 Allegheny Avenue, Towson, Md. 21204

Robert A. Hoffman, Attorney for Protestants  
210 Allegheny Avenue, Towson, Md. 21204

Request Notification:

P. David Fields, Director of Planning & Zoning  
James Hoswell, Office of Planning & Zoning  
J. Robert Haines, Zoning Commissioner  
Ann M. Nastarowicz, Deputy Zoning Commissioner  
James E. Dyer, Zoning Supervisor  
Docket Clerk

PETITION IN SUPPORT OF GROUP CHILD CARE CENTER, CLASS B

We, the undersigned, being at least eighteen (18) years of age, and who live in the Randallstown-Wildwood Community, do hereby request that the Zoning Commissioner of Baltimore County approve the Petition of Gertrude J. Edwards for a Class B, Group Child Care Center upon the premises located at 3829 Rayton Road, Baltimore County, Maryland 21133.

| NAME                  | ADDRESS                                          |
|-----------------------|--------------------------------------------------|
| 1. Karen Bennett      | 9714 Mendoza Rd<br>Randallstown Md. 21133        |
| 2. Agnes & Louis      | 3527 Milford Mill Rd<br>Baltimore Md 21207       |
| 3. Michael Lewis      | 2708 CLARKMAN PLACE<br>RANDOLPH STATION MD 21133 |
| 4. Ronald Williams    | 9 DELL CT<br>1 EVATT CT<br>Randallstown Md 21133 |
| 5. Lawrence B. Fisher | 10100 Davis Ave<br>Wadesboro, Md 21143           |
| 6. Charles Boyer      | 5105 Davis Ave<br>Baltimore Md 21143             |
| 7. Frank G. Jr        | 3829 Rayton Rd<br>Randallstown Md 21133          |
| 8. Joanne Clabaugh    | 58 Middlebrook Rd<br>Randallstown Md 21133       |
| 9. Lois R. Sharp      | 7800 Maryland Rd<br>Randallstown Md 21133        |
| 10. Mirela Rea        | 7800 Maryland Rd<br>Randallstown Md 21133        |
| 11. Joan L. Jr        | 9101 W. 11th St<br>Baltimore Md 21143            |
| 12. Ben Smith         | 8616 Bramble Ln<br>Rand. Md 21133                |

PETITIONER'S  
EXHIBIT 4

SHIRLEY S. BENNETT  
9714 Mendoza Road  
Randallstown, MD 21133  
(301) 655-8691

OBJECTIVE: To work with children or handicapped youth who need guidance to achieve their goals.

EMPLOYMENT: Rockland Elementary School  
Howard County School System  
Columbia, MD

Responsibilities: Planned and organized activities for small groups in the Language Impaired and the Student Learning Disability Programs. Activities included math, reading and writing. Prepared learning centers and organized field trips and other school related activities.

1975-76 Delray Center  
United Cerebral Palsy for Handicapped Children  
Responsibilities: Reviewed and assisted the school therapist with individuals goals.

1973-74 Lida Lee Day Care Center  
Towson, MD  
Responsibilities: Worked as the Assistant Teacher for the Center.

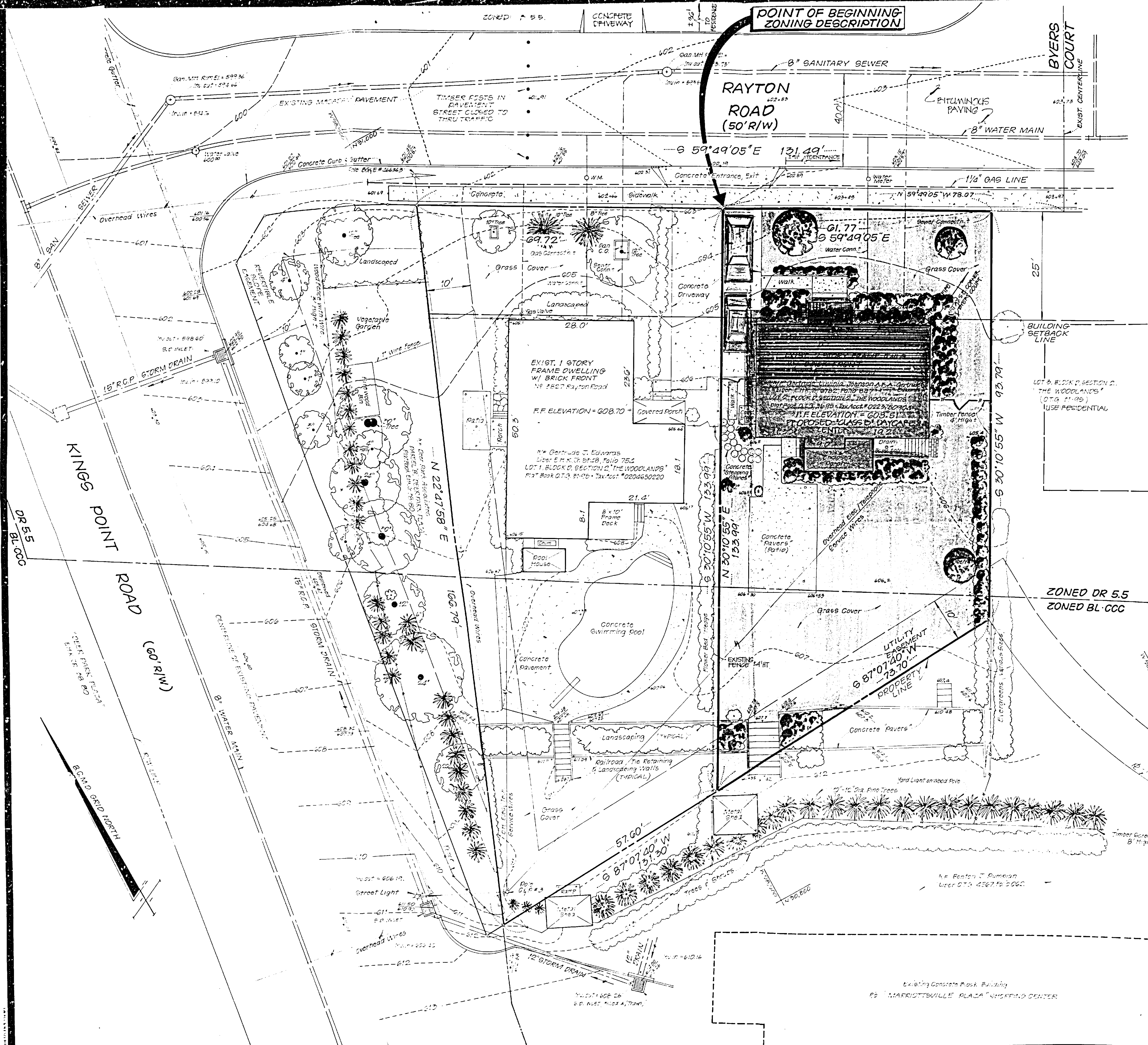
1972-73 Little Slippers Kindergarten  
Baltimore County  
Baltimore, MD

Responsibilities: Taught Nursery School children in private school.

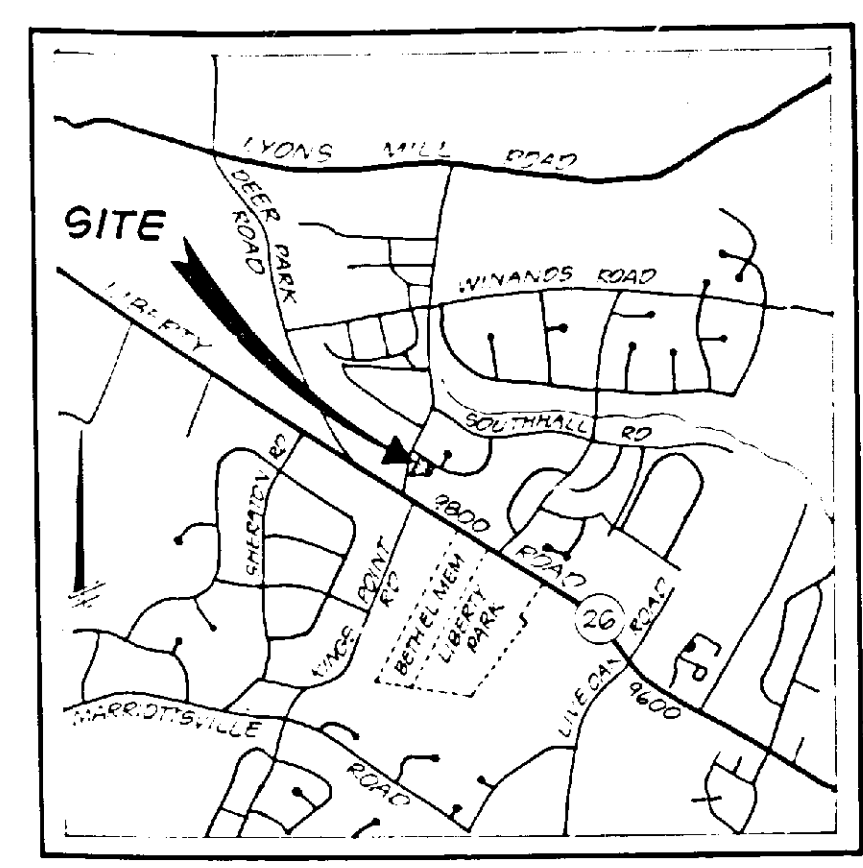
1967-74 Anson County School System  
Wadesboro, North Carolina  
Responsibilities: Worked in the Early Childhood Education Program, substitute-taught elementary grades one through three, as well as kindergarten and nursery school. Taught pre-school age children in the federally sponsored Head-start Program.

EDUCATION: J.R. Faison Senior High School  
Wadesboro, North Carolina Diploma - 1965  
Johnson C. Smith University  
Charlotte, North Carolina Elementary Education - 60 Sem.Hrs.  
As part of my employment with Anson County Schools, 64 Hrs. was earned toward a degree in Early Childhood Education through the University of North Carolina at Chapel Hill.

REFERENCES: Available upon request



POINT OF BEGINNING  
ZONING DESCRIPTION



LOCATION MAP  
SCALE: 1" = 2000'

| Revisions |             |      |
|-----------|-------------|------|
| No        | Description | Date |
|           |             |      |
|           |             |      |
|           |             |      |
|           |             |      |
|           |             |      |

*Mark A. Riddle*

Certification

GERTRUDE J. EDWARDS PROPERTY

NOS. 3827-3829 RAYTON ROAD  
ELECTION DISTRICT NO. 2 C2  
BALTIMORE COUNTY, MARYLAND.

Tax Map 66, Block 24, P/O Parcel 353

STV/Lyon Associates  
Architects • Planners  
Engineers • Surveyors

21 Governors Court  
Baltimore, Maryland 21207  
(301) 944-9112

Sheet Title  
**ZONING PLAT**

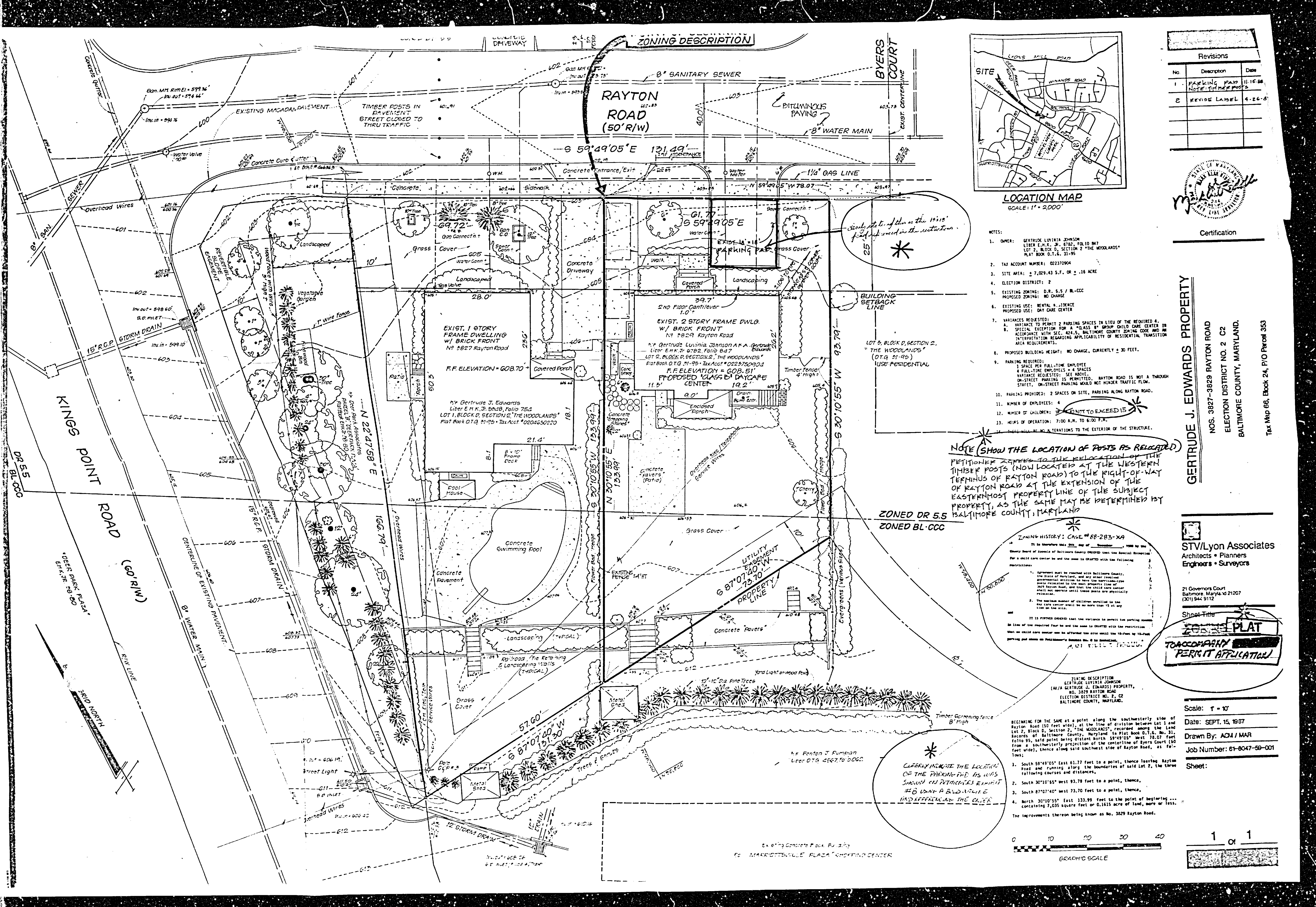
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Date: SEPT. 15, 1987  
Drawn By: ACM / MAR  
Job Number: 61-8047-59-001

Sheet:

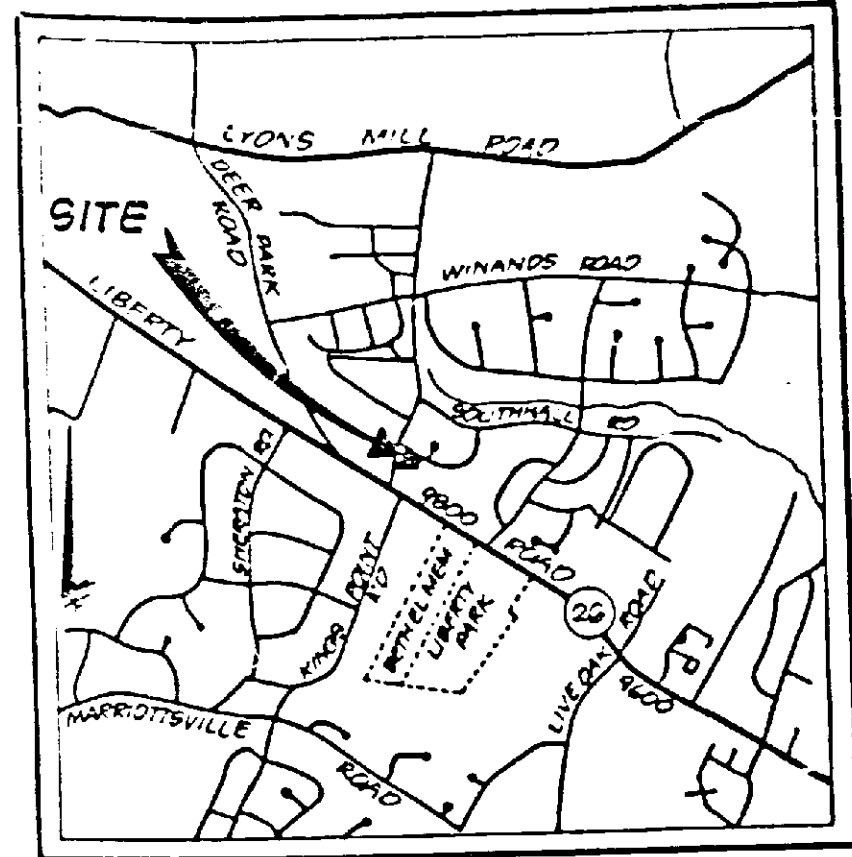
**PETITIONER'S  
EXHIBIT 1**



1 of 1



ZONING DESCRIPTION



| Revisions |               |          |
|-----------|---------------|----------|
| No.       | Description   | Date     |
| 1         | PARKING PAD   | 11-15-88 |
| 2         | REVISED LABEL | 4-26-88  |
|           |               |          |
|           |               |          |
|           |               |          |



Certification

- NOTES:
- OWNER: GERTRUDE LUVINIA JOHNSON  
LIEB E.H.K. JR. 6782, Folio B47  
LOT 2, BLOCK D, SECTION 2, "THE WOODLANDS"  
PLAT BOOK O.T.G. 31-95
  - TAX ACCOUNT NUMBER: 022370904
  - SITE AREA: ± 7,029.43 S.F. OR ± .16 ACRE
  - ELECTION DISTRICT: 2
  - EXISTING ZONING: D.R. 5.5 / BL-CCC  
PROPOSED ZONING: NO CHANGE
  - EXISTING USE: RENTAL A. JUDICE  
PROPOSED USE: DAY CARE CENTER
  - VARIANCES REQUESTED:  
A. VARIANCE TO PERMIT 2 PARKING SPACES IN LIEU OF THE REQUIRED 4.  
B. SPECIAL EXCEPTION FOR A CLASS "B" GROUP CHILD CARE CENTER IN ACCORDANCE WITH SEC. 424.5, BALTIMORE COUNTY ZONING CODE AND AN INTERPRETATION REGARDING APPLICABILITY OF RESIDENTIAL TRANSITION AREA REQUIREMENTS.
  - PROPOSED BUILDING HEIGHT: NO CHANGE, CURRENTLY ± 30 FEET.
  - PARKING REQUIRED:  
1 SPACE PER FULL-TIME EMPLOYEE  
4 SPACE PER PART-TIME EMPLOYEE  
VARIANCE REQUESTED: SEE ABOVE.  
ON-STREET PARKING IS PERMITTED. RAYTON ROAD IS NOT A THROUGH STREET. ON-STREET PARKING WOULD NOT IMPAIR TRAFFIC FLOW.
  - PARKING PROVIDED: 2 SPACES ON SITE, PARKING ALONG RAYTON ROAD.
  - NUMBER OF EMPLOYEES: 4
  - NUMBER OF CHILDREN: ~~15~~ (DO NOT EXCEED 15)
  - HOURS OF OPERATION: 7:00 A.M. TO 6:00 P.M.
  - THESE WILL BE NO ALTERATIONS TO THE EXTERIOR OF THE STRUCTURE.

NOTE (SHOW THE LOCATION OF POSTS AS RELOCATED)  
PETITIONER AGREES TO THE RELOCATION OF THE  
TIMBER POSTS (NOW LOCATED AT THE WESTERN  
TERMINUS OF RAYTON ROAD) TO THE RIGHT-OF-WAY  
OF RAYTON ROAD AT THE EXTENSION OF THE  
EASTERNMOST PROPERTY LINE OF THE SUBJECT  
PROPERTY, AS THE SAME MAY BE DETERMINED BY  
BALTIMORE COUNTY, MARYLAND

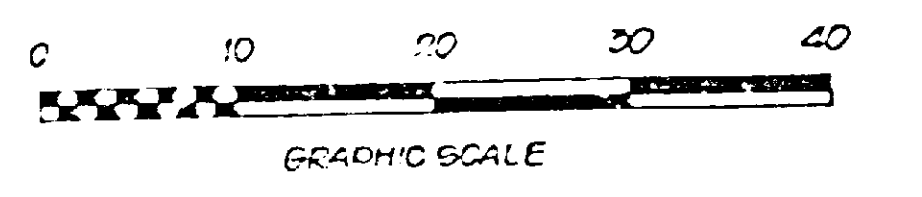
ZONED DR 5.5  
ZONED BL-CCC

ZONING HISTORY: CASE #88-283-XA

TO ACCOMPANY PERMIT APPLICATION

ZONING DESCRIPTION  
GERTRUDE LUVINIA JOHNSON  
(A/E) GERTRUDE J. EDWARDS PROPERTY,  
100, 3829 RAYTON ROAD,  
ELECTION DISTRICT NO. 2, C2  
BALTIMORE COUNTY, MARYLAND.

- BEGINNING FOR THE SAME AT A POINT ALONG THE SOUTHWESTERLY SIDE OF  
Rayton Road 150 feet wide at the line of division between Lot 1 and  
Lot 2, Block D, Section 2, "THE WOODLANDS", recorded among the Land  
Records of Baltimore County, Maryland in Plat Book O.T.G. No. 31,  
Folio 95, said point being distant North 59°49'05" West 78.07 feet  
from a southeasterly projection of the centerline of Byers Court (60  
feet wide), thence along said southwest side of Rayton Road, as fol-  
lows:
- South 59°49'05" East 61.77 feet to a point, thence leaving Rayton  
Road and running along the boundaries of said Lot 2, the three  
following courses and distances,
  - South 30°10'55" West 93.78 feet to a point, thence,
  - South 87°07'40" West 73.70 feet to a point, thence,
  - North 30°10'55" East 133.99 feet to the point of beginning ...  
containing 7,035 square feet or 0.1615 acre of land, more or less.
- The improvements thereon being known as No. 3829 Rayton Road.



GERTRUDE J. EDWARDS PROPERTY

NOS. 3827-3829 RAYTON ROAD  
ELECTION DISTRICT NO. 2 C2  
BALTIMORE COUNTY, MARYLAND.

Tax Map 66, Block 24, P/O Parcel 353

STV/Lyon Associates  
Architects • Planners  
Engineers • Surveyors

21 Governors Court  
Baltimore, Maryland 21207  
(301) 544-9112

Sheet Title  
PLAT  
TO ACCOMPANY  
PERMIT APPLICATION

Scale: 1" = 10'  
Date: SEPT. 15, 1987  
Drawn By: AOM / MAR  
Job Number: 61-8047-58-001  
Sheet:

