

IN THE MATTER OF
THE APPLICATION OF
ANDREW L. STRAKA, ET UX
FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE SOUTH SIDE OF
IROQUOIS AVENUE, 370' EAST OF THE
CENTERLINE OF LODGE FARM ROAD
(7513 IROQUOIS AVENUE)
15th ELECTION DISTRICT
7th COUNCILMANIC DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. 88-307-SPH

RULING ON MOTION

The Board now has before it a Motion for Reconsideration of its Opinion and Order dated December 23, 1988. In that Opinion and Order, the Board granted the property owner's Petition for Special Hearing seeking approval of one single-family dwelling and one two-apartment dwelling on the subject property and denied the Petitioner's Special Hearing for approval of the construction of a garage. The Protestant herein, Clara Hicks, has requested that the Board reconsider its decision as to the nonconforming use. As a basis therefore, the Protestant proffers that additional witnesses are available who each possesses special knowledge and insight as to the use of this property prior to Baltimore County's enactment of the Zoning Regulations in 1945.

On the one hand, the Board must be cautious against opening a Pandora's box and re-litigating every matter which comes before it.

On the other side, however, the Board recognizes that its hearing is the last forum on which a record is built. Therefore, the Board has always exercised its administrative discretion widely to allow litigants a full opportunity to present their respective positions. This attitude was exemplified previously in this case when the Board permitted the extra-judicial depositions of Mr. and Mrs. Batchelor.

After balancing these competing interests, the Board is persuaded to grant the Protestant's Motion for Reconsideration. However, we are not

Case No. 88-307-SPH
Andrew L. Straka, et ux

2.
The Board is anxious to re-litigate this entire matter; therefore, reconsideration will be limited only to the testimony of Mrs. Cris Lawrenson and Mr. & Mrs. Harold Pritchard, the designated witnesses in the Protestant's Motion. In the interest of fairness, we will allow reasonable rebuttal, if any.

ORDER

Upon the foregoing Motion for Reconsideration, it is this 23rd day of January, 1989 by the County Board of Appeals of Baltimore County ORDERED that the Protestant's Motion for Reconsideration be and is hereby GRANTED, and that this matter will be set for an additional hearing in a manner as set forth in the Ruling attached hereto.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence E. Schmidt
Lawrence E. Schmidt, Acting Chairman

IN THE MATTER OF
THE APPLICATION OF
ANDREW L. STRAKA, ET UX
FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE SOUTH SIDE OF
IROQUOIS AVENUE, 370' EAST OF THE
CENTERLINE OF LODGE FARM ROAD
(7513 IROQUOIS AVENUE)
15th ELECTION DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. 88-307-SPH

RULING ON MOTION

The Board is in receipt of a Motion filed by the Petitioners herein to permit the Board to receive extra-judicial testimony. The case is an appeal from the decision of the Deputy Zoning Commissioner regarding the Petitioner's request for a special hearing to permit the continuation of a nonconforming use. The Petitioner in his Motion avers that a most relevant portion of his case concerns the use of this property prior to 1949. It is also alleged that there are no witnesses available to testify as to the property's use at that time. However, the Petitioner has located two witnesses who have personal knowledge of the property during the 1940's.

It is further requested that, because of the health of these witnesses and the distance involved in bringing them to our hearing, the sworn statements made by them at deposition be admitted into evidence before this Board. It is noted that the Deputy Zoning Commissioner did not allow this evidence; however, there has been no opposition filed to the Petitioner's Motion before this Board. In consideration of this Motion, we are governed by the Board's Rules of Practice and Procedure. Initially, it should be noted that rule 4(d) states that "depositions shall not be allowed unless by agreement of all parties or their counsel of record." The Board has often cited this rule as basis for its position that pre-trial discovery in the administrative hearings conducted by this Board is not allowed. Notwithstanding this

Case No. 88-307-SPH
Andrew L. Straka, et ux

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language, however, the Board does not view rule 4(d) as prohibiting the introduction of evidence by deposition in this case. Rather, a review of Board rule 7 is in order. Rule 7(a) provides "any evidence which would be admissible under the general rules of evidence applicable in judicial proceedings in the State of Maryland shall be admissible in hearings before the county board of appeals." A review of Maryland Rule 2-419(a)(3)(B) provides that the deposition of a witness may be used when the witness is out of state. Later, in Rule 2-419(a)(3)(C), the use of a deposition is permitted when the witness is unable to testify because of age or sickness. Finally, 2-419(a)(3)(E) allows the use of a deposition when it is desirable in the interest of justice.

Based upon the foregoing, the Board is persuaded to grant the Petitioner's Motion and will so order. As is proper and customary, the Board will assign the weight to this evidence which it deems appropriate.

ORDER

Upon the foregoing Motion to Receive Extra-Judicial Testimony, it is this 7th day of December, 1988 by the County Board of Appeals of Baltimore County ORDERED that the depositions of Kenyon S. Batchelor and Mary E. Batchelor will be received as extra-judicial testimony in this case.

Lawrence E. Schmidt
Lawrence E. Schmidt
Acting Chairman
County Board of Appeals
of Baltimore County

IN THE MATTER OF
THE APPLICATION OF
ANDREW L. STRAKA, ET UX
FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE SOUTH SIDE OF
IROQUOIS AVENUE, 370' EAST OF THE
CENTERLINE OF LODGE FARM ROAD
(7513 IROQUOIS AVENUE)
15th ELECTION DISTRICT
7th COUNCILMANIC DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. 88-307-SPH

OPINION

Following the issuance of the Board's Opinion and Order on December 23, 1988, a Protestant, Clara Hicks, filed a Motion for Reconsideration within that Motion, Ms. Hicks requested that the Board open the case so that testimony could be received from three witnesses, Mr. and Mrs. Harold Pritchard and Mrs. Cris Lawrenson. In our Ruling on that Motion on January 23, 1989, we granted the Motion for Reconsideration with the caveat that an additional date would be assigned to consider only the testimony from the witnesses named. Proper notice of our Ruling was sent.

The Board reconvened its hearing on February 15, 1989 at which time Mr. and Mrs. Pritchard and Ms. Lawrenson did not appear. Consistent with its Ruling, no further evidence was accepted, and the Board will therefore reconsider its decision based upon the record in this case.

Finding no reason to alter or amend our earlier decision, the Board will adopt herein the Findings of Fact and Conclusions of Law as set forth in our Opinion and Order of December 23, 1988, and will so order.

ORDER

It is therefore this 22nd day of February, 1989 by the

Case No. 88-307-SPH
Andrew L. Straka, et ux

2.
County Board of Appeals ORDERED that the Board's Opinion and Order of December 23, 1988 be and is hereby AFFIRMED, and said Opinion and Order is adopted and incorporated herein as if fully set forth.

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

Lawrence E. Schmidt
Lawrence E. Schmidt, Acting Chairman

Henry H. Lewis
Henry H. Lewis

Lynn J. Moreland
Lynn J. Moreland

IN THE MATTER OF
THE APPLICATION OF
ANDREW L. STRAKA, ET UX
FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE SOUTH SIDE OF
IROQUOIS AVENUE, 370' EAST OF THE
CENTERLINE OF LODGE FARM ROAD
(7513 IROQUOIS AVENUE)
15th ELECTION DISTRICT
7th COUNCILMANIC DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. 88-307-SPH

OPINION

This matter comes before the Board as an appeal of the decision of the Deputy Zoning Commissioner dated June 24, 1988. The Deputy Zoning Commissioner denied the property owner's Petition for Special Hearing to approve the nonconforming use of the subject property as one lot with two existing dwellings (one 2-apartment dwelling and one single-family dwelling) and to permit an accessory building (garage). As the Petition for Special Hearing requests approval for two uses, we shall address each in turn.

As to the nonconforming use, it is agreed that the Petitioners bear the burden of producing evidence sufficient to persuade this Board that the two residential dwellings have existed continuously since 1945. The Board has taken extensive testimony on the issue.

The Board first heard from William Bateman, who now resides in the neighborhood. Additionally, he testified that he had lived down the street during the years 1938 to 1948. The subject property was originally owned by the McFarland family until its sale to the present owners in 1974. Mr. Bateman recalls assisting Mr. McFarland in the construction of the two-story cement building which currently houses two apartment units. His recollection of that assistance dates during the years of World War II, approximately from 1942 to 1944. He specifically recalls hauling block and lumber on-site at that time and remembers the property being ready for occupancy in 1944 in that his uncle

Case No. 88-307-SPH
Andrew L. Straka, et ux

2.
considered renting one of the apartment units before being drafted into the service.

Gilbert Barr, of 7711 Bayfront Road, also testified. He recalls working this area as a salesman during 1947 to 1950, and also lived at the second-floor apartment on the subject site for approximately one year in 1955. His testimony was consistent that the apartments were in use during his time in contact with the property.

Dolores Fraley testified and has lived approximately three blocks away from the property for 21 years. However, she has been a resident of the community for almost 40 years. She recalls both the main house and the apartment house existing on the property and in use during the past 40 years. Specifically, she remembers that there were always two apartments in the cement building and that they had always been rented.

Both Mr. Dale Warner and his wife, Retha Warner, testified. Like other residents they lived in the area during the 1940's, moved out for several years, then returned in 1954. Their testimony was consistent with the others; to wit, that the property has existed as a single-house with an accessory building housing two occupied apartments since the early 1950's.

Andrew Straka, the property owner, also testified. He stated he purchased the property in July 1974 and has occupied the main house since that time. Further, after a brief renovation of the downstairs apartment, both apartments have been rented continuously during his ownership. He had no knowledge of the use of the property prior to 1974, and was not aware of the nonconforming nature of his use until he sought approval from the County to construct a garage.

The sole witness in opposition to the Petition who could comment as to the nonconforming nature was Clara Hicks, an immediate next-door neighbor at

Case No. 88-307-SPH
Andrew L. Straka, et ux

She testified that her property has been in her family since 1925 and was used as a summer house until approximately 1985, when she took up residence year-round. To the best of her recollection, she differed with Mr. Bateman and stated that the cement building was constructed in 1949.

In addition to the testimony summarized above, the Board also received copies of depositions taken of Mr. and Mrs. Kenyon Batchelor, the daughter and son-in-law of the previous owners. This testimony was received pursuant to the Board's favorable ruling on the Petitioner's Motion to Receive Extra-Judicial Testimony. The Board also received statements from two previous tenants, Becky Kline and Mitzi Biegel.

Based upon the preponderance of the testimony received, the Board is convinced that the property has existed as a nonconforming use since prior to 1945. We will therefore grant the Petitioner's request for special hearing and allow the property owner to continue to maintain the two-apartment cement dwelling in addition to the one-family single house. Our approval limits the use in the main house to occupancy by one family and the maintenance of two apartments in the cement house.

Turning to the second issue, the Board received limited testimony regarding same. Most of the testimony was received from Mr. Andrew Straka, the current property owner. He stated that he desired to construct an accessory building (garage) on-site as depicted on Petitioner's Exhibit No. 1, the plat of the property. He claimed that additional storage needs justified the construction of this building. Specifically, he testified that he owns three cars and two boats in addition to outside furniture and property associated with his enjoyment of the waterfront. Mrs. Straka corroborated this testimony.

Mrs. Hicks and the immediate neighbor on the other side of the subject site, John Shkor, testified in opposition to this accessory building.

Case No. 88-307-SPH
Andrew L. Straka, et ux

They opined that the neighborhood has become overwhelmed due to the desirability of waterfront property. Additionally, they felt that the small lot could not bear three buildings. They also fear a trend of further overcrowding of their neighborhood.

After reviewing all of the evidence received, the Board is persuaded to deny the Petitioner's request for approval of the accessory building. If the Petitioner's need for storage is as acute as he testified, it could be solved by the conversion of the apartments to storage space. Likewise, there was uncontradicted testimony that the size of the main house is substantial, large enough to have supported at one time another family. The Board is also concerned about the overdevelopment of property in such proximity to the Bay and its tributaries. For the foregoing reasons, we will deny the Petitioner's special hearing in this regard and will so order.

ORDER

It is therefore this 23rd day of December, 1988 by the County Board of Appeals of Baltimore County ORDERED that the Petition for

Case No. 88-307-SPH
Andrew L. Straka, et ux

Special Hearing seeking approval of one single-family dwelling and one two-apartment dwelling on the subject property be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Special Hearing for approval of the construction of an accessory building (garage) be and is hereby DENIED.

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

Lawrence E. Schmidt
Lawrence E. Schmidt, Acting Chairman

Henry H. Lewis

Lynn B. Moreland
Lynn B. Moreland

IN RE: PETITION FOR SPECIAL HEARING
3/5 Iroquois Avenue, 370' E
the c/1 of Lodge Farm Road
(7513 Iroquois Avenue)
15th Election District
7th Councilmanic District

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 88-307-SPH
Andrew L. Straka, et ux
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve the nonconforming use of the subject property as one lot with two existing dwellings (one two-family and one single family) and to permit an accessory building (garage) on the same lot, as more particularly described in Petitioner's Exhibit 1.

The Petitioners appeared, testified, and were represented by Counsel, Ralph K. Rothwell, Jr., Esquire. The following persons appeared and testified on behalf of the Petition: Madison D. and Retha M. Warner, Dolores C. Fraley, and Gilbert E. Barr. The following persons appeared and testified as Protestants: Rosemary Shkor, Clara Hicks, Lewis D. Burn, Nora Blusiewicz and Diane Piper.

The instant Petition was originally scheduled to be heard on February 10, 1988 at 11:00 AM. However, at that time, Mr. Straka appeared by himself and without any witnesses. A continuance was granted as it was clear the Petitioner did not understand the burden of proof upon him to prove the nonconforming use and thought he would only be required to give testimony in support of the proposed garage only. Testimony of one of the Protestants who could not appear at a later date was taken at that time and is discussed hereafter.

ORDER RECEIVED
Date *1/13/89*
By *Ralph K. Rothwell*

Thereafter, by letter dated February 19, 1988, the Petitioners requested that their Petition be dismissed. After a telephone conversation with Mrs. Straka, the Deputy Zoning Commissioner advised the Petitioners by letter dated February 29, 1988 that since the question had been raised as to whether the two presently existing dwellings were permitted as a nonconforming use, and if no additional evidence was presented at the continued hearing set for April 26, 1988, a determination would be made that the nonconforming use of the subject property had not been established; therefore, the request would be denied. The Petitioners were advised they had the burden of establishing the nonconforming use of the subject property prior to the 1945 zoning regulations.

Testimony during the April hearing indicated that the subject property, known as 7513 Iroquois Avenue, is zoned D.R. 5.5 and is currently improved with two dwellings. On the waterfront side of the property is an existing single family dwelling and to the rear of the property is a stucco building currently used as a two-family dwelling. The Petitioner opposes constructing a 22' x 36' garage in front of the rear stucco building. Mr. Straka testified that he purchased the property in July 1974 at which time the rear stucco building was occupied and rented as a two-story apartment building. He testified that since their purchase of the property they have rented the stucco building as two apartments continuously and without interruption, except for brief periods during a change of tenants. Mr. Straka further testified that he and his family live in the single family dwelling on the front portion of the property and have made numerous additions to the dwelling since their purchase. He testified that until recently, he had rented out the basement of his residence to another family who moved out the weekend before the hearing. The Petition-

ers testified that they now understand that the front dwelling could not be used as a multi-family dwelling and would not and did not intend to use it as such. Mr. Straka testified that he is requesting the variance to construct the proposed garage as he needs additional storage space and a place to keep his cars.

Ms. Warner testified that she has lived in the area since 1943, with the exception of a four-year period from 1950 to 1954. She testified that in 1952 she specifically remembers looking at the property as she considered purchasing it at that time. She further testified that the buildings at that time were as they exist today. While she does not specifically remember someone living in the downstairs of the rear building, she does remember someone living upstairs. She further testified that she remembers back as far as 1949 walking by the property and the appearance of someone living in at least the upstairs portion of the dwelling.

Mr. Barr testified that he was familiar with the area since the 1950s. While he cannot specifically testify that the rear stucco building was used as apartments in 1950, he knows that the rear building was rented as apartments in January 1955 because he was the upstairs tenant.

Ms. Farley testified that she rented the rear property in the 1960s at which time both the upstairs and downstairs were rented. She further testified that she remembers in the mid-50s an individual by the name of "Iris" living there.

At the hearing, the Petitioners conceded that the 1945 zoning regulations did not permit as a matter of right the existence of the two dwellings as depicted on Petitioner's Exhibit 1 on the subject property.

Mr. Shkor testified at the February hearing as a Protestant. He indicated that he was opposed to the granting of the variance for the

ORDER RECEIVED
Date *1/13/89*
By *Ralph K. Rothwell*

proposed garage building as he believed the property is already overcrowded and feared that the Petitioners would eventually convert the garage into apartments. He indicated that he cannot establish or deny whether the lot is a nonconforming lot with two existing dwellings as he moved into the area in 1978. He was concerned with overexpansion and indicated that two families were currently residing in the dwelling identified as a single family dwelling.

Mrs. Shkor testified at the April hearing that she has lived in the neighborhood since 1978 and she is opposed to the granting of the variance as the neighborhood and subject property are already overcrowded.

Ms. Hicks testified that she has lived in the adjoining property, known as 7515 Iroquois Avenue, since 1974. Prior to that time she frequented the subject property as a summer home in 1924. At that time she was 20 years of age. She testified that subsequent to the purchase of their residence in 1974, the previous owners, the McFarlands, had constructed the front dwelling and used it initially as a summer home. She further testified that sometime thereafter, the exact date of which she is not certain, but at least as far back as 1950, the McFarlands built the rear stucco building and used it as both a garage and rental of apartments.

Mr. Burn, who resides at 7521 Iroquois Avenue, testified that he moved to his residence in late 1949 and remembers at least one apartment in the upstairs of the rear building in the 1950s. He indicated that he had been in the downstairs of the rear dwelling at which time it was partly used as a garage and partly as storage space, and possibly as a rental apartment.

Subsequent to the close of the hearing, the Petitioners' attorney submitted copies of depositions of Mary E. Batchelor and Kenyon S.

ORDER RECEIVED
Date *1/13/89*
By *Ralph K. Rothwell*

Batchelor, daughter and son-in-law of the McFarlands, taken on April 29, 1988 in Leechburg, PA. Said depositions were presented and requested to be received as evidence in the case, although they were taken after the hearing and without the agreement and/or presence of the Protestants. Said depositions will not be considered as ample opportunity was given to Petitioners to present the required testimony at the hearing. If the Petitioners are dissatisfied with the ruling, they have the right to appeal the case to the County Board of Appeals at which time a de novo hearing will be held where the witnesses can be brought to the hearing and/or depositions used if deemed appropriate by the Board after having an opportunity to hear from the Protestants as to their position regarding the use of the depositions.

The Petitioners seek relief pursuant to Sections 104.1 and 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.).

The burden of proving a nonconforming use is on the claimant of the use. *Calhoun vs. Board of Appeals of Baltimore County*, 277 A2d. 589 (1971). The Petitioners had the burden of proving that the two dwellings on the property, one used as a single family dwelling and the other as a two family dwelling, existed as of right prior to January 2, 1945, the effective date of the first zoning regulations in Baltimore County and/or were permitted under the 1945 regulations. Testimony presented indicates that the single family dwelling facing the waterfront was constructed prior to January 2, 1945. The testimony presented as to the existence of the rear building is, at the earliest, 1949. The date it was first used as two apartments was even more uncertain, but no earlier than 1949. The Petitioners conceded that two dwellings were not permitted as of right under the 1945 regulations. The Petitioners' request to add an accessory

ORDER RECEIVED
Date *1/13/89*
By *Ralph K. Rothwell*

building for use as a garage on the same lot is moot since the nonconforming use has been denied.

After due consideration of the testimony and evidence presented, it is clear that a nonconforming use for the subject property has not been established. It is equally clear that the construction of a third building is not necessary and would be detrimental to the surrounding neighborhood.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special hearing and variance should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of June, 1988 that the Petition for Special Hearing to approve the nonconforming use of the subject property as one lot with two existing dwellings (one two-family and one single family) and the request to permit an accessory building (garage) on the same lot, in accordance with Petitioner's Exhibit 1, be and are hereby DENIED.

Ann M. Nastarowicz
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN:ms

MASLAN, MASLAN AND ROTHWELL, P.A.
ATTORNEYS AT LAW
7308 EASTERN AVE. U.E.
BALTIMORE, MARYLAND 21284
TEL. (301) 282-2700

N. MICHAEL MASLAN
GARY R. MASLAN
RALPH M. ROTHWELL, JR.
LINDA EVE PERCY

July 12, 1988

J. Robert Haines
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204

Re: Petition for Special Hearing
5/5 Iroquois Avenue, 370' E of the
c/l of Lodge Farm Road
(7513 Iroquois Avenue)
15th Election District;
7th Councilmanic District
Andrew L. Straka, et ux - Petitioners
Case No. 88-307-SPH

Dear Commissioner Haines:

On June 24, 1988 Deputy Zoning Commissioner Nastarowicz entered an Order and Opinion denying the Petitioners Petition for Special Hearing to approve the non-conforming use of the subject property as one lot with two existing dwellings (1 two family and 1 single family) and their request for an accessory building. Please docket our appeal of this matter to the Board of Appeals for Baltimore County.

I enclose a copy of the findings of fact and conclusions of law in this matter along with my trust check in the amount of \$90.00 to cover the costs involved. Please keep us posted as to the new date for hearing at the Board of Appeals. I thank you for your assistance in this matter.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 52838
DATE 7-14-88 ACCOUNT 001-006-6150
AMOUNT \$ 90.00
RECEIVED FROM MASLAN, MASLAN, & ROTHWELL
FOR APPEAL FILING - CASE # 88-307-SPH
ANDREW L. STRAKA, et ux - PETITIONERS
B 0717*****9001a 2128F

RECEIVED ZONING OFFICE
DATE: 7/13/88

CERTIFICATE OF PUBLICATION

TOWSON, MD, Jan 21 1988
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on Jan. 21, 1988

THE JEFFERSONIAN

Susan Studer Obrecht
Publisher

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified below in Room 104 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland on the following date:
DATE/TIME: Wednesday, February 10, 1988 at 11:00 a.m.
Special Hearing - A nonconforming use of the property, including a dwelling (1 family) and an accessory building (garage) on the same lot.
In the event that this Petition is denied within the thirty (30) day appeal period, the Zoning Commission will proceed with, however, objections any and all persons during the period for appeal. The Zoning Commission shall be in writing and received in the office by the date of the hearing set above or presented at the hearing.
J. ROBERT HAINES
Zoning Commissioner
111 W. Chesapeake Avenue
Towson, Md. 21284

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 15th Date of Posting 4/19/88
Posted for Special Hearing
Petitioner: Andrew & Frances Straka
Location of property: 5/5 Iroquois Ave., 370' E of Lodge Farm Rd.
7513 Iroquois Ave.
Location of Sign: Facing Iroquois Ave., corner of Lodge Farm Rd., on the property of Petitioners
Remarks:
Posted by [Signature] Date of return: 4/14/88
Number of Signs: 1

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve
A NONCONFORMING LOT WITH TWO DWELLINGS EXISTING; ONE DWELLING (2 FAMILY) AND ONE DWELLING (1 FAMILY); ALSO TO PERMIT AN ACCESSORY BUILDING (GARAGE) ON THE SAME LOT.

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of the above Special Hearing 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 we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: _____ Legal Owner(s): _____
(Type or Print Name) (Type or Print Name)
Signature: _____ Signature: _____
Address: _____ Address: _____
City and State: _____ City and State: _____
Attorney for Petitioner: _____
(Type or Print Name) (Type or Print Name)
Signature: _____ Signature: _____
Address: _____ Address: _____
City and State: _____ City and State: _____
Attorney's Telephone No.: _____ Attorney's Telephone No.: _____

ORDERED By the Zoning Commissioner of Baltimore County, this 13th day of June, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 104, County Office Building in Towson, Baltimore County, on the 10th day of July, 1988, at 11 o'clock A.M.

Continued to:
155 - 2 gm.
J. Robert Haines
Zoning Commissioner of Baltimore County.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 15th Date of Posting 4/25/88
Posted for: Special Hearing
Petitioner: Andrew & Frances Straka
Location of property: 5/5 Iroquois Ave., 370' E of Lodge Farm Rd.
7513 Iroquois Ave.
Location of Sign: Facing Iroquois Ave., corner of Lodge Farm Rd., on the property of Petitioners
Remarks:
Posted by [Signature] Date of return: 4/22/88
Number of Signs: 1

ZONING DESCRIPTION

BEGINNING on south side Iroquois Avenue 20 feet wide, at the distance of 370 feet east of the centerline of Lodge Farm Road. BEING Lot #1147 of Lodge Forrest. Plat Book #7, Folio 152. Also known as 7513 Iroquois Avenue, in the 15th Election District. Containing 16,375 square feet.

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

Mr. & Mrs. Andrew P. Straka
7513 Iroquois Avenue
Baltimore, Maryland 21219
FEB 02 1988
Re: Case number: 88-307-SPH
5/5 Iroquois Avenue, 370' E of c/l Lodge Farm Road
(7513 Iroquois Avenue)
15th Election District - 7th Councilmanic
Petitioners: Andrew and Frances Straka

Dear Mr. & Mrs. Strakas:
Please be advised that \$95.16 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(s) from the property from the time it posted by this office until the day of the hearing itself.

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

Please make your check payable to Baltimore County, Maryland and forward to the Zoning Office, County Office Building, Room 113, Towson, Maryland 21204.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 45958
DATE 2/10/88 ACCOUNT 001-615-000
AMOUNT \$ 95.16
RECEIVED FROM Andrew & Frances Straka
FOR Posting & Ad. 2/10/88 hearing
B 0717*****3315a 2128F
VALIDATION OR SIGNATURE OF CASHIER

ORDER RECEIVED FOR FILING
Date 2/10/88
By [Signature]

ORDER RECEIVED FOR FILING
Date 2/10/88
By [Signature]

151

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

J. Robert Haines
Zoning Commissioner

Date: 7/18/88



Dennis F. Rasmussen
County Executive

Re: Mr. & Mrs. Andrew Straka
7513 Iroquois Avenue
Baltimore, Maryland 21219

Re: Petition for Special Hearing
Case number: 88-307-SPH
S/S Iroquois Avenue, 370' E of c/1 Lodge Farm Road
(7513 Iroquois Avenue)
15th Election District - 7th Councilmanic District
Petitioner(s): Andrew and Frances Straka
HEARING SCHEDULED: TUESDAY, APRIL 26, 1988 at 2:00 p.m.

Dear Mr. & Mrs. Straka:

Please be advised that \$15.00 is due for re-posting of the above-referenced property. Do not remove the sign(s) 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(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please bring the sign(s) and post(s) to 111 W. Chesapeake Avenue, Room 111, County Office Building, Towson, Maryland, along with your check made payable to Baltimore County, Maryland on the day of the hearing.

Very truly yours,

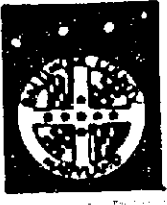
J. ROBERT HAINES,
Zoning Commissioner of
Baltimore County

JRH:sgs
cc: file

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

J. Robert Haines
Zoning Commissioner

MAR 0 6 1988



Dennis F. Rasmussen
County Executive

NOTICE OF HEARING

(Continued from February 10, 1988
Additional testimony to be taken.)

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:

Petition for Special Hearing
Case Number: 88-307-SPH
S/S Iroquois Avenue, 370' E of c/1 Lodge Farm Road
(7513 Iroquois Avenue)
15th Election District - 7th Councilmanic District
Petitioner(s): Andrew and Frances Straka
HEARING SCHEDULED: TUESDAY, APRIL 26, 1988 at 2:00 p.m.

Special Hearing: A nonconforming lot with two dwellings existing; one dwelling (2 family) and one dwelling (1 family); also to permit an accessory building (garage) on the same lot.

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

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County
cc: Mr. & Mrs. Straka
Ms. Clara Hicks
Ms. Nora Blusiewicz
Mr. John Skor
File

MAR 0 9 1988 cc: Ralph K. Rothwell, Jr. Esq.

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: 88-307-SPH
S/S Iroquois Avenue, 370' E of c/1 Lodge Farm Road
(7513 Iroquois Avenue)
15th Election District - 7th Councilmanic District
Petitioner(s): Andrew and Frances Straka
DATE/TIME: WEDNESDAY, FEBRUARY 10, 1988 at 11:00 a.m.

Special Hearing -
A nonconforming lot with two dwellings existing; one dwelling (2 family) and one dwelling (1 family); also to permit an accessory building (garage) on the same lot.

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

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

No. 50547

ROBERT HAINES
Zoning Commissioner of
Baltimore County

DATE: 4/26/88 ACCOUNT: R-01-615-000

AMOUNT \$ 15.00

RECEIVED: Andrew Straka, et al

POSTING: 4/26/88

FOR: 88-307-SPH

VALIDATION OR SIGNATURE OF CASHIER

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

J. Robert Haines
Zoning Commissioner

August 23, 1988



Dennis F. Rasmussen
County Executive

Baltimore County Board of Appeals
County Office Building, Room 315
Townson, Maryland 21204

RE: Petition for Special Hearing
S/S Iroquois Avenue, 370' E of the c/1 of Lodge Farm Road
(7513 Iroquois Avenue)
15th Election District, 7th Councilmanic District
ANDREW L. STRAKA, ET UX - Petitioners
Case No. 88-307-SPH

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on July 13, 1988 by Ralph K. Rothwell, Jr., Attorney on behalf of the Petitioners. 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: Ralph K. Rothwell, Jr., Esquire, Maslan, Maslan and Rothwell, P.A., 7508 Eastern Avenue, Baltimore, Md. 21224

Rosemary Skor, 7511 Iroquois Road, Baltimore, Md. 21219

Clara Hicks, 7515 Iroquois Road, Baltimore, Md. 21219

Lewis D. Burn, 8521 Iroquois Road, Baltimore, Md. 21215

Nora Blusiewicz, 7701 S. Cove Road, Baltimore, Md. 21219

People's Counsel, Rm. 304, County Office Bldg., Towson, Md. 21204

APPEAL

Petition for Special Hearing
S/S Iroquois Avenue, 370' E of the C/1 of Lodge Farm Road
(7513 Iroquois Avenue)
15th Election District - 7th Councilmanic District
ANDREW L. STRAKA, ET UX - Petitioner
Case No. 88-307-SPH

Petition for Special Hearing

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

Petitioner's Exhibits: 1. & 2. Documented "Statement of Mary E. Batchelor" & "Statement of Kenyon S. Batchelor"
2. Copy of Drawing of Lodge Forest
3. Copy of Deed of property
4. Copy of list of apartment tenants
5. & 6. Copies of "Statement of Mitzi Kiegel" "Statement of Becky Kline"

Copies of Summons to Testify

Copy of Motion to Enter Appearance and Rescind Dismissal

Zoning Commissioner's Order dated June 24, 1988 (Denied)

Copy of Motion pursuant to Rule IV of the Zoning Commission to accept testimony taken out of the hearing.

Notice of Appeal received July 13, 1988 from Ralph K. Rothwell, Jr., Attorney on behalf of Petitioner

cc: Ralph K. Rothwell, Jr., Esquire, Maslan, Maslan and Rothwell, P.A., 7508 Eastern Avenue, Baltimore, Md. 21224

Rosemary Skor, 7511 Iroquois Road, Baltimore, Md. 21219

Clara Hicks, 7515 Iroquois Road, Baltimore, Md. 21219

Lewis D. Burn, 8521 Iroquois Road, Baltimore, Md. 21215

Nora Blusiwicz, 7701 S. Cove Road, Baltimore, Md. 21219

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

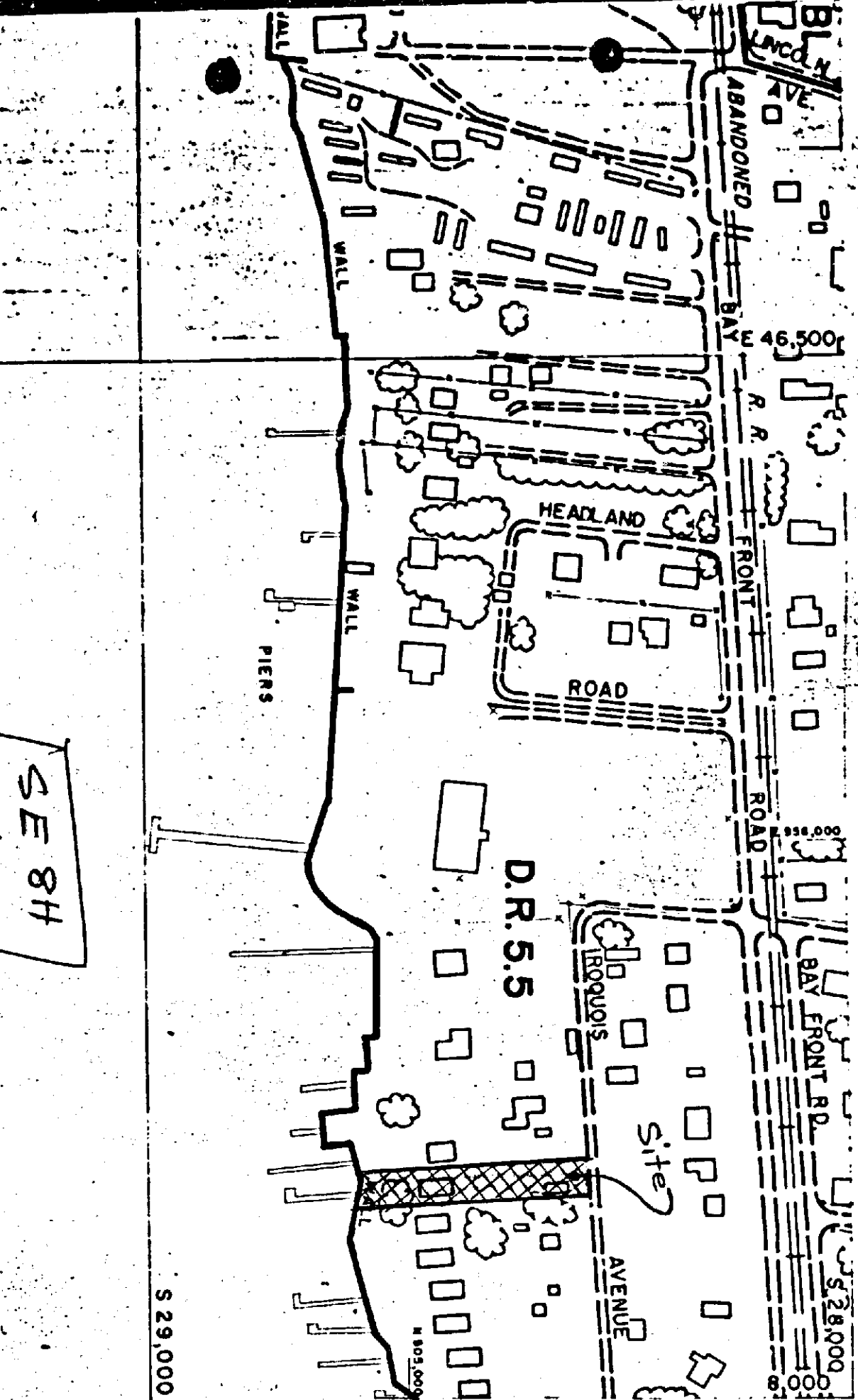
Request Notification: P. David Fields, Director of Planning & Zoning
James Howell, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann H. Mastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
Docket Clerk

PETITIONERS
PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Rutha M. Givens	7503 Baywood Rd, Balto 21217
Walter R. W. Davis	7503 Baywood Rd Balto 21217
Dorcas C. Fraley	2107 Creech Rd Balto Md 21219
Robert L. Ben	7701 Bayfront Rd BALTO MD 21219

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Rosemary Skor	7511 IROQUOIS RD
Clara Hicks	7515 Iroquois Rd
Lewis D. Burn	8521 Iroquois Rd
Nora Blusiewicz	7519 Iroquois Rd
Albin Cooper	7701 S. Cove Rd



TENANTS WHO LIVED IN THE APARTMENTS SINCE WE OWNED PROPERTY:

1st floor: 104
Mr. & Mrs. John Riegler
7317 North Dakota Ave.
Baltimore, MD 21219
477-2398
(August 1974 thru February 1977)
Ms. Mary Kerntke & Mr. Joseph Smith
(March 1977 thru September 1979)
Laura Crites
7822 Harold Road
Baltimore, MD 21222
282-8533
(September 1979 thru March 1980)
James Billings
7513 Iroquois Road
Baltimore, MD 21219
477-3806 (Son-477-1394)
(April 1980 to present time)
2nd Floor:
Mr. William Smith
(to September 1974)
Mr. & Mrs. Paul Kline
6922 Riverdrive Road
Baltimore, MD 21219
388-1335
(September 1974 to June 1976)
Mr. & Mrs. Glen Dawson & father, Ellwood Bowser
477-2711
(June 1976 thru January 1987)
Mrs. Marie Podles
7513 Iroquois Road
Baltimore, MD 21219
(January 1987 to present time)

PETITIONERS
EXHIBIT 4

STATEMENT OF MITZI RIEGEL

My name is Mrs. Mitzi Riegel. I presently reside at 7317 North Dakota Avenue, Baltimore, Maryland 21219. I am familiar with 7513 Iroquois Avenue in Baltimore County, Maryland 21219. From August 1974 to February 1977, I resided in one of the two units located at the rear of that property. My sister, Becky Kline, lived in the other unit for some of that time.

I hereby state and affirm under the penalties of perjury that the above information is true and correct to the best of my knowledge, information and belief.

WITNESS: Amy R. Yamell, Mitzi Riegel. DATE: April 23, 1978

PETITIONER'S EXHIBIT 5

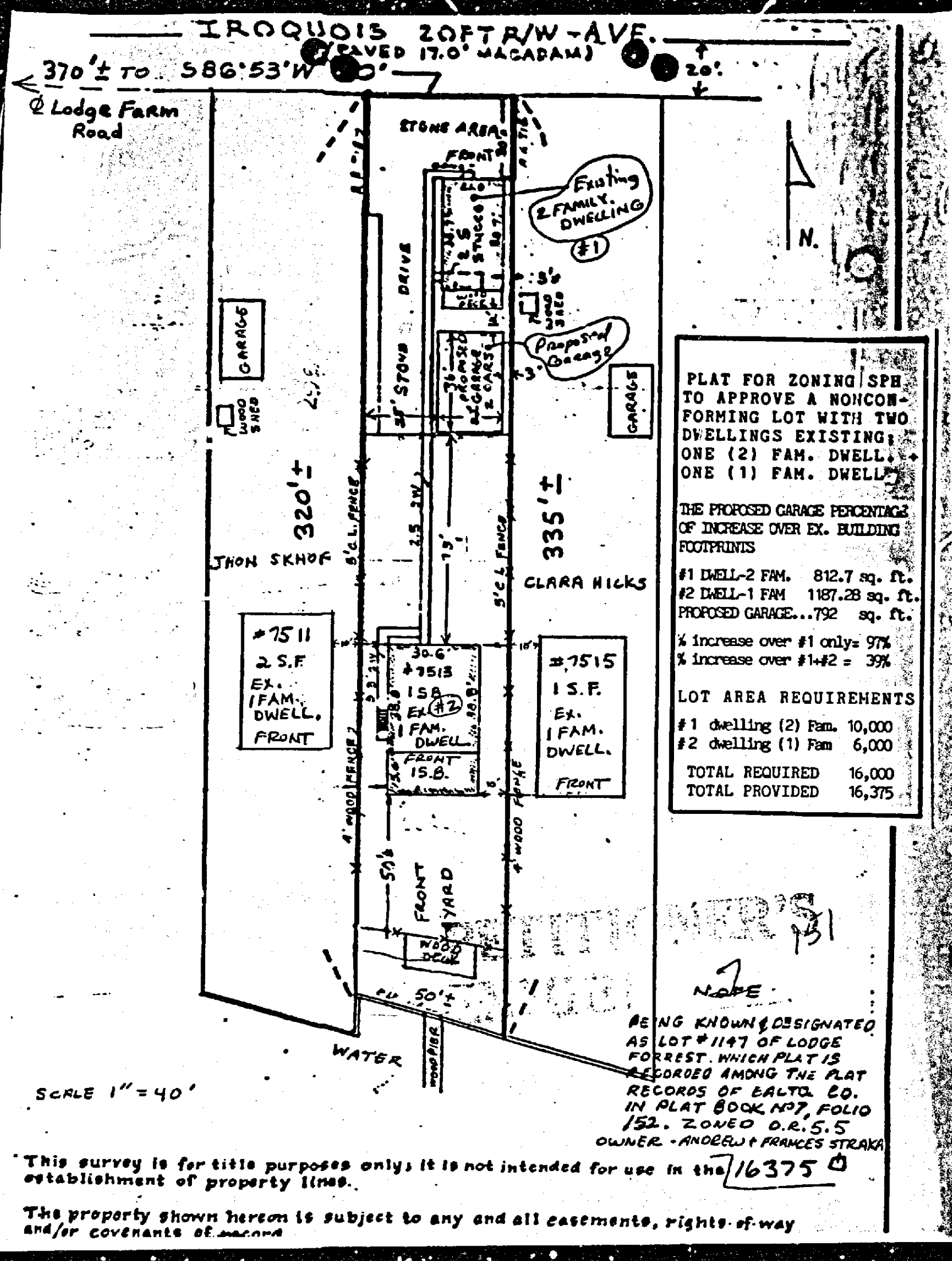
STATEMENT

My name is Mrs. Becky Kline. I presently live at 6922 Riverdrive road, Baltimore, Maryland 21219. I am familiar with 7513 Iroquois Avenue located in Baltimore County Maryland 21219. From 1974 through 1976 I resided in one of the two rental units located in the rear of that property. During the time that I lived there, both units were occupied as was the larger main house on the premises. Before I lived in one of the rental units, my sister Mitzi occupied one of the two rental units. Both were occupied while she was there.

I hereby state and affirm under the penalties of perjury that the above information is true and correct to the best of my knowledge, information and belief.

Witness: Doris Deegan, Mrs. Becky Kline. DATE: 4-18-78

PETITIONER'S EXHIBIT 6



This Deed, Made this 11th day of July

in the year one thousand nine hundred and seventy-four by and between Mary E. Batchelor and Betty L. Furr, of the County of Baltimore, State of Maryland, of the first part, and Andrew L. Straka and Frances P. Straka, his wife, of the second part.

Witnesseth, that in consideration of the sum of Five (\$5.00) Dollars and other good and valuable considerations, the receipt of which is hereby acknowledged the said Mary E. Batchelor and Betty L. Furr, do hereby grant and convey unto the said Andrew L. Straka and Frances P. Straka, his wife, as tenants by the entireties, their assigns, and unto the survivor of them, his or her heirs and assigns, in fee simple, all that lot (#) of ground, situate, lying and being in the County of Baltimore, State of Maryland, and described as follows, that is to say:-

BEING the same lot of ground which by Deed dated December 23, 1926, and recorded among the Land Records of Baltimore County in Liber WPC 640, folio 209, was granted and conveyed by Charles L. Renshaw, unmarried, to Grover M. McFarland and Melva McFarland, his wife. The said Melva McFarland died on 11, 1966, and the said Grover M. McFarland died on or about September 5, 1968, and by his Last Will and Testament, dated September 22, 1966, filed in the Register of Wills Office for Baltimore County in Wills Liber JLD 107, folio 54, he devised said property to Betty L. Furr and Mary E. Batchelor.

PETITIONER'S EXHIBIT 3

Together with the buildings and improvements thereon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or anywise appertaining.

To Have and To Hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Andrew L. Straka and Frances P. Straka, his wife, as tenants by the entireties, their assigns, and unto the survivor of them, his or her heirs and assigns, in fee simple.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property granted and that they will execute such further assurances of the same as may be requisite.

Witness the hands and seals of said grantors: Mary E. Batchelor, Betty L. Furr. Robert S. Putterman, Notary Public.

State of Maryland, County of Baltimore, to wit: I Elizabeth Cerny, That on this 11th day of July, 1974, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County personally appeared Mary E. Batchelor and Betty L. Furr, known to me (or satisfactorily proven) to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained, and in my presence signed and sealed the same.

In Witness Whereof, I hereunto set my hand and official seal. Robert S. Putterman, Notary Public. My Commission expires for record JUL 15 1974 at 11:00. July 1, 1974 Per Elmer E. Kahlas, Jr., Clerk. Mail to Robert S. Putterman, Receipt No.

RECEIVED & RECORDED BALTO. CO. CIRCUIT COURT FOR BALTO. CO. JUL 15 4 21 PM '78. Includes a table for recording fees and a 'RECEIVED' stamp.

RE: PETITION FOR SPECIAL HEARING BEFORE THE ZONING COMMISSIONER. SUMMONS TO TESTIFY. Mr. Clerk: Please issue subpoenas for the following: Ms. Delores Fraley, Gilbert Barr. and to appear at the Baltimore County Zoning Board, County Office Building, 1111 W. Chesapeake Avenue, Towson, Maryland 21204 on April 26, 1988 at 2:00 P.M. and to testify for Andrew Straka herein in the above entitled matter.

RE: PETITION FOR SPECIAL HEARING BEFORE THE ZONING COMMISSIONER. SUMMONS TO TESTIFY. Mr. Clerk: Please issue subpoenas for the following: Ms. Delores Fraley, Gilbert Barr. and to appear at the Baltimore County Zoning Board, County Office Building, 1111 W. Chesapeake Avenue, Towson, Maryland 21204 on April 26, 1988 at 2:00 P.M. and to testify for Andrew Straka herein in the above entitled matter.

RECEIVED
 MAY 5 1988
 ZONING OFFICE

Ann M. Nastarowicz
 Deputy Zoning Commissioner
 Baltimore County Zoning Board
 County Office Building
 111 W. Chesapeake Avenue
 Towson, Maryland 21204

Re: Petition for Special Hearing
 7513 Iroquois Avenue
 Straka, Case #88-307-SPH

Dear Ms Nastarowicz:
 This letter is offered as a Memorandum and brief in support of the Petitioners, Straka, Petition for Non-Conforming Use of the rental property located at 7513 Iroquois Avenue. You have received oral testimony from residents of the neighborhood and former residents of the apartments, and from neighbors who oppose the Straka's Petition.

My primary concern in this matter is the non-conforming use issue as it would work a serious harm to my clients to be denied the right to continue to have and maintain a building which is apparently been on that property over 44 years. I choose that particular length of time as it is the time length stated by Mr. Kenyon Batchelor in his deposition (page 15 line 18).

To reiterate testimony which is before you, witnesses Barr and Fraley actually resided in the rental property during the mid-50's (Barr) and the mid and latter 60's (Fraley). Mr. Barr has knowledge of the properties going back back several years before his residence and Mrs. Fraley testified to knowledge of the existence of the rental properties going back

to 1949. The Warner's testify from personal knowledge of the property, its existence in the form of a two apartment rental unit along with the main house on the property and their friendship with the Barr's as who resided there at one time. Mrs. Warner in fact lived at the property for purposes of purchasing it in the early 50's and at that time it was laid out as an efficiency apartment and garage on the first floor and an apartment on the second floor. The main house was in existence at that time. The Petitioners testified that at the time of and since their purchase of the property (see d. Petitioners Exhibit) the rental units have been occupied continuously by tenants. The main house has been occupied by the Petitioners.

The testimony of one of the protestants, Clara Hicks, who resides next door to the property in question was to the effect that to the best of her knowledge the rental property was always rental property, but her recollection only extended back to 1950 as to its existence and use.

The depositions of Mary Batchelor and Kenyon Batchelor were obtained at their home in Leechburg, Pennsylvania outside of Pittsburgh, Pennsylvania on April 29, 1988. Mrs. Batchelor is one of the two daughters of the McFarland's, the family that originally constructed the rental units and the main house. Both her parents are deceased as is her sister, Betty Furrer. Mrs. Batchelor testifies that she resided at 7513 Iroquois Avenue from 1938 through 1942 (MB, deposition page 3 line 8) and that she married her husband in June of 1942 (MB, deposition page 4). They moved from the Baltimore area to Pennsylvania but continued to journey back to her parents home every summer for vacation purposes for a number of years. She expresses ten years (MB, deposition page 7 & 8) while her husband says it was more in the nature of thirty years (KB, deposition page

10). While Mary Batchelor's recollection of the exact year that the rental property was erected is not exact she pins it down to sometime between her marriage in 1942 and the birth of her first child in June of 1946 (MB, deposition page 7 & 8), and she recalls that when they brought their first child back east after his birth in the summer of 46 she has a memory of the building being up and in use at that time (MB, deposition page 7 & 8).

Her testimony is clear and strong on the subject of the layout of the property (MB, deposition page 6, line 16). It was constructed originally to house two apartments and a single car garage. It was constructed by her father with the intention of generating rental income and he was anxious to have it rented as soon as it was constructed. To the best of her knowledge it was rented continuously from the time it was erected (MB, deposition page 9, line 6). She recalls each summer when she went to visit her parents that the units were rented and that her father collected the rent.

As her father grew older an aunt, Mrs. Tannenbaum assisted him in collecting the rents and after he passed away, for a time, until the house was sold, she resided there collecting the the rents for the two sisters (MB, deposition page 9).

Mr. Kenyon Batchelor has a clearer recollection of the time frame in which the building was actually erected. His testimony is consistent with his wife's but is more specific. The two taken together are strong evidence that the building was in place by 1944 or 1945 at the very latest. He recalls that Mr. McFarland began construction of the structure shortly after his marriage in 1942 (KB, deposition page 7 & 10). He states that it took Mr. McFarland about a year to construct the property since he did much of the work himself (KB, deposition page 9). Apparently Mr. McFarland

was an engineer of some kind and designed and built the structure on his own or with the assistance of neighbors and certain subcontractors. Using Mr. Batchler's reckoning, that would place the structure as being erected sometime in 1944. In fact, toward the end of his deposition Mr. Batchelor indicates that he felt the building was 44 years old (KB, deposition page 15).

His recollection is further bolstered by his recollection that Mr. McFarland worked for Rheem Company during the Second World War and wanted to generate extra income for the family. He indicated that was the purpose for the construction of the rental units (KB, deposition pages 9, 11 & 12). He describes in some detail the building itself, concrete block, of a two story construction erected for the purpose of housing two rental units and generating income for the family (KB, deposition pages 6, 18 & 14). He also describes that the McFarland's originally used the shore for a summer place but ultimately moved there on a permanent basis around 1938. Mr. Batchelor began visiting Iroquois Avenue in 1936 after meeting his wife at Ohio State University and verifies the continuous use of the main house as a residence by the McFarland's, later by Mrs. Tannenbaum, and ultimately as sold to the Straka's.

On the issue of the non-conforming use, the Petitioners have met their burden by a preponderance of the evidence and are entitled to keep and maintain the rental property at that location. Petitioners submit on the evidence as to the remaining issue of the variance for a new garage.

Respectfully submitted,
 Ralph K. Rothwell, Jr.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of May, 1988 a copy of the foregoing letter was mailed postage pre-paid to Clara Hicks, 7515 Iroquois road, Baltimore, Maryland 21219, Rosemary Skore, 7511 Iroquois Road, Baltimore, Maryland 21219, Mrs. Bluswicz, 7519 Iroquois Road, Baltimore, Maryland 21219 and Phyllis Friedman, Peoples Counsel for Baltimore County, Old Court House, Towson, Maryland 21204.

Ralph K. Rothwell, Jr.

NORTH POINT PENINSULA COMMUNITY COORDINATING COUNCIL

April 19, 1988

RECEIVED
 APR 21 1988
 ZONING OFFICE

Dear Mr. Haines:
 RE: Petition for Special Hearing
 Case No. 88-307-SPH
 S/S Iroquois Ave., 370' E of c/1 of Lodge Farm Rd.
 (7513 Iroquois Avenue)
 15th Election District - 7th Councilman District
 Petitioner(s): Andrew and Frances Straka
 Tuesday, April 26, 1988 at 2:00 P.M.

The attached statement regarding the subject was discussed at the North Point Peninsula Community Coordinating Council's April 7, 1988 meeting with unanimous vote to oppose petition.

Respectfully Submitted,
 Betty J. Chandler
 (Miss) Betty J. Chandler
 Corresponding Secretary
 6605 North Point Road
 Baltimore, MD 21219

att.
 cc: The Honorable Norman R. Stone, Jr.
 The Honorable Dale T. Volz

*Called 4/19/88
 asking about a representative
 please come for hearing
 477-4179
 288-3700*

NORTH POINT PENINSULA COMMUNITY COORDINATING COUNCIL

April 19, 1988

RECEIVED
 APR 21 1988
 ZONING OFFICE

Dear Mr. Haines:
 RE: Petition for Special Hearing
 Case No. 88-307-SPH
 S/S Iroquois Ave., 370' E of c/1 of Lodge Farm Rd.
 (7513 Iroquois Avenue)
 15th Election District - 7th Councilman District
 Petitioner(s): Andrew and Frances Straka
 Tuesday, April 26, 1988 at 2:00 P.M.

The North Point Peninsula Community Coordinating Council wishes to submit this statement as testimony in regard to Case #88-307-SPH, Petition for Special Hearing continued, a nonconforming lot with two dwellings; one dwelling (2 family) and one dwelling (1 family); also to permit an accessory building (garage) on the same lot.

It is the position of the North Point Peninsula Community Coordinating Council to be supportive of the Baltimore County Zoning Regulations, established to promote the health, comfort, prosperity, orderly development and other aspects of the general welfare of the community. As a result, the property has developed into a lovely stable neighborhood through strict adherence to the areas residential zoning DR 5.5, with single family owner occupied homes.

A change of zoning to a nonconforming use or variance, as requested by the above Petitioners, would not be consistent with DR 5.5 zoning in the area and would not be compatible with existing neighboring properties or the entire community. There is fear that a nonconforming use for the above property would set a precedent, possibly encourage others to rent, thus changing the character and stability of the neighborhood. Any variance, special exception or nonconforming use changes would not be in the best interest of the community, thus this Council opposes any change.

Mr. J. Robert Haines
 Zoning Commissioner
 Baltimore County

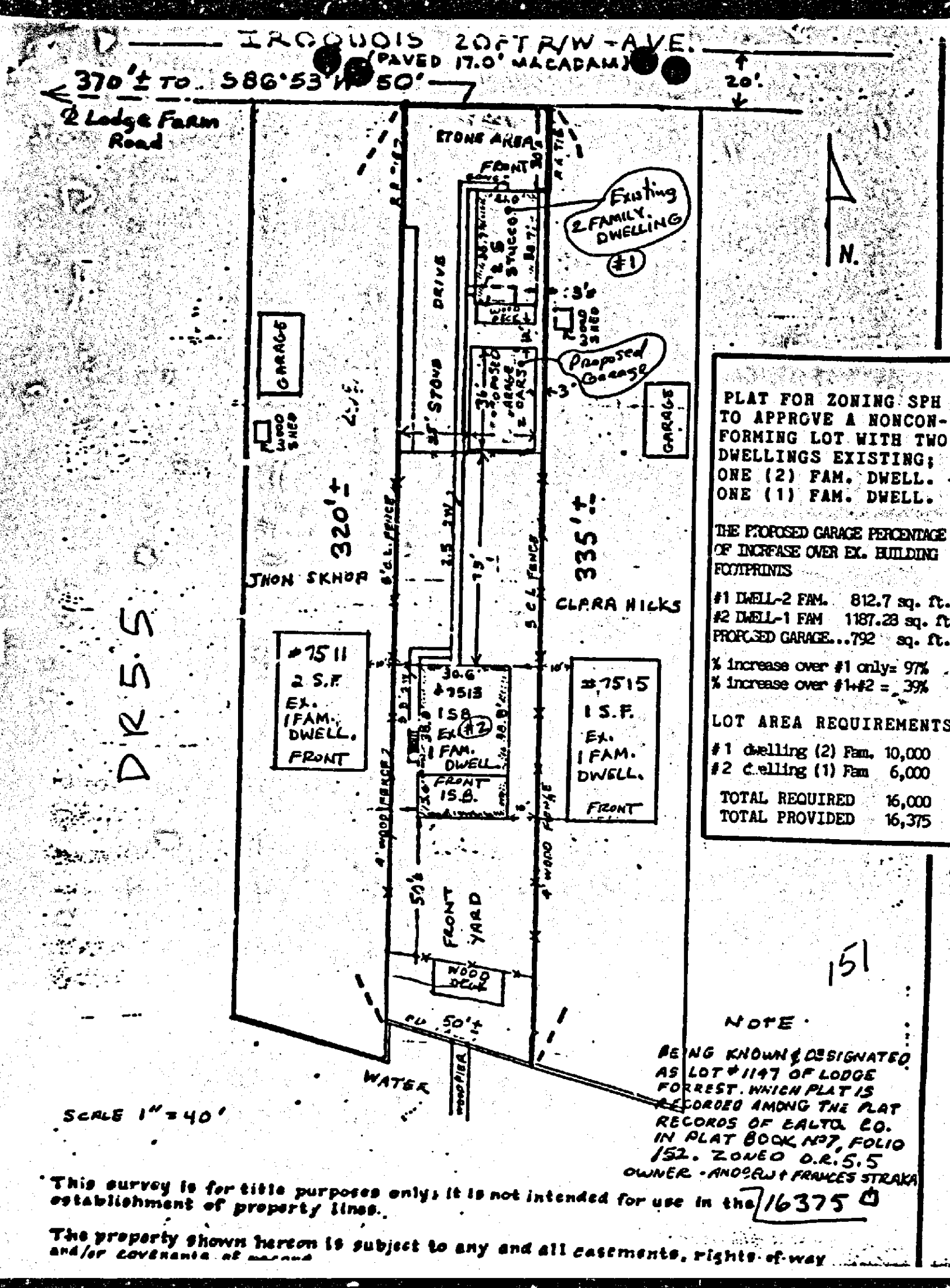
Page 2 of 2
 RE: Case #88-307-SPH
 Petition for Special
 Hearing

It is also important to note that the above mentioned property is within the Critical Areas Zone, directly on the waters of Old Road Bay, thus we recommend great caution and consideration to the impact of "over-use" of the property.

This Council is sympathetic with the petitioner and understands the need for the proposed garage; however, we would suggest that the building closest to Iroquois Road (shown on plat as "Existing 2 Family Dwelling") was in fact a garage and should be converted back to its original use, thereby providing the needed garage.

Therefore, for the above reasons, the North Point Peninsula Community Coordinating Council requests the above petition be denied.

Respectfully Submitted,
 Betty J. Chandler
 (Miss) Betty J. Chandler
 Corresponding Secretary
 North Point Peninsula Community
 Coordinating Council
 6605 North Point Road
 Baltimore, MD 21219



February 7, 1988.

To the Young Commission,

I am writing in regard to case 88-307 SPH concerning property at 7513 Iroquois Avenue.

I am opposed to any further construction on this property.

I am opposed to the four residences, not three as listed on the notice.

I am unable to attend the hearing due to illness. I believe that accepting the requests of the property owner would set a negative precedent.

*Mrs. Clara Hicks
7513 Iroquois Rd.*

This got down to the Commission on Feb 14, 1988

February 29, 1988

Wayne Flora
Zoning Inspector

Ann M. Nastarowicz
Deputy Zoning Commissioner

7513 Iroquois Avenue
15th Election District - 7th Councilmanic District
Petition for Special Hearing - Case No. 880907-SPH
Andrew L. and Frances P. Straka - Property Owners

Attached please find a copy of the letter dated February 29, 1988 to the subject property owners for your information.

If after the public hearing is held it still appears that a zoning violation exists, a request will be made for further investigation. Prior to continuance of the hearing, testimony was presented which would indicate that even if the two dwellings were proper, the second dwelling is now being used as a two-family unit which may not be permitted. In the meantime, if you have any questions or open complaints concerning the subject property, please let me know.

Thank you for your assistance in this matter.

AMH:bj
cc: File

February 29, 1988

Mr. & Mrs. Andrew L. Straka
7513 Iroquois Avenue
Baltimore, Maryland 21219

RE: Petition for Special Hearing
3/3 Iroquois Ave., 370' E of c/l of Lodge Farm Rd. (7513 Iroquois Avenue),
15th Election District - 7th Councilmanic District
Case No. 88-307-SPH

Dear Mr. & Mrs. Straka:

This office is in receipt of your letter dated February 19, 1988 requesting dismissal of the above-referenced case. Please be advised that as a result of testimony presented at the hearing held on February 10, 1988, a question has been raised as to whether the two dwellings presently existing on the subject property are permitted as non-conforming uses or are a zoning violation. Thus, even if you do not want to build a garage at this time, our office will require proof that the two existing dwellings are legal non-conforming uses.

The continued hearing on the subject matter has been scheduled for Tuesday, April 26, 1988 at 2:00 PM. At that time, it will be necessary that you provide evidence that one dwelling has existed as a two-family unit and the other dwelling has existed as a one-family unit since before 1945. If you fail to appear on that date, a determination will be made based upon the evidence presented thus far, which is inadequate to establish a non-conforming use.

Based upon evidence presented thus far, I must report the matter to our Zoning Enforcement Division. A citation will only be issued in the event that the non-conforming nature of the property is not established and/or the two dwellings if found to be non-conforming, have more family units than what existed at the time the non-conforming use was established.

Very truly yours,

AMH:bj
cc: Mrs. Clara Hicks
Mr. & Mrs. John Shor
Ms. Nora Blusiewicz
People's Counsel
Wayne Flora, Zoning Inspector
File

Ann M. Nastarowicz
Deputy Zoning Commissioner
of Baltimore County

2/10
February 29, 1988

Owen Stephens
Docket Clerk

Ann M. Nastarowicz
Deputy Zoning Commissioner

Petition for Special Hearing
3/3 Iroquois Avenue, 370' E of
the c/l of Lodge Farm Road
(7513 Iroquois Avenue)
15th Election District - 7th Councilmanic District
Case No. 88-307-SPH

Please be advised that I have continued the above-referenced case which must be scheduled on one of my hearing dates as I took original testimony from witnesses. In addition, the property must be reported and all persons listed on the attached Protestants' sign-in sheet must be notified of the new hearing date and time. Please place this note and Protestants list in file.

If you have any questions on the subject, please do not hesitate to see me.

AMH:bj
cc: File

1/16/88 at 2:00pm

February 19, 1988

Ms. Ann Nastarowicz
Deputy Zoning Commissioner
Baltimore County Office of
Planning and Zoning
111 West Chesapeake Avenue
Towson, MD 21204

SUBJECT: Case No. 88-307-SPH, 7513 Iroquois Avenue

Dear Ms. Nastarowicz:

Due to financial consideration, it is requested that subject case be dismissed.

Thank you.

Sincerely yours,
Andrew Straka
ANDREW STRAKA
Frances Straka
FRANCES STRAKA

RECEIVED
FEB 22 1988
ZONING OFFICE

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
JOHN SHOR	7511 IROUOIS AVE DIST NO. 3129
Nora Blusiewicz	7519 IROUOIS AVE

*Not present but notify of new hearing date
7513 Iroquois Rd. 2/21/88
Clara Hicks*

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. J. Robert Haines
TO: Zoning Commissioner

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

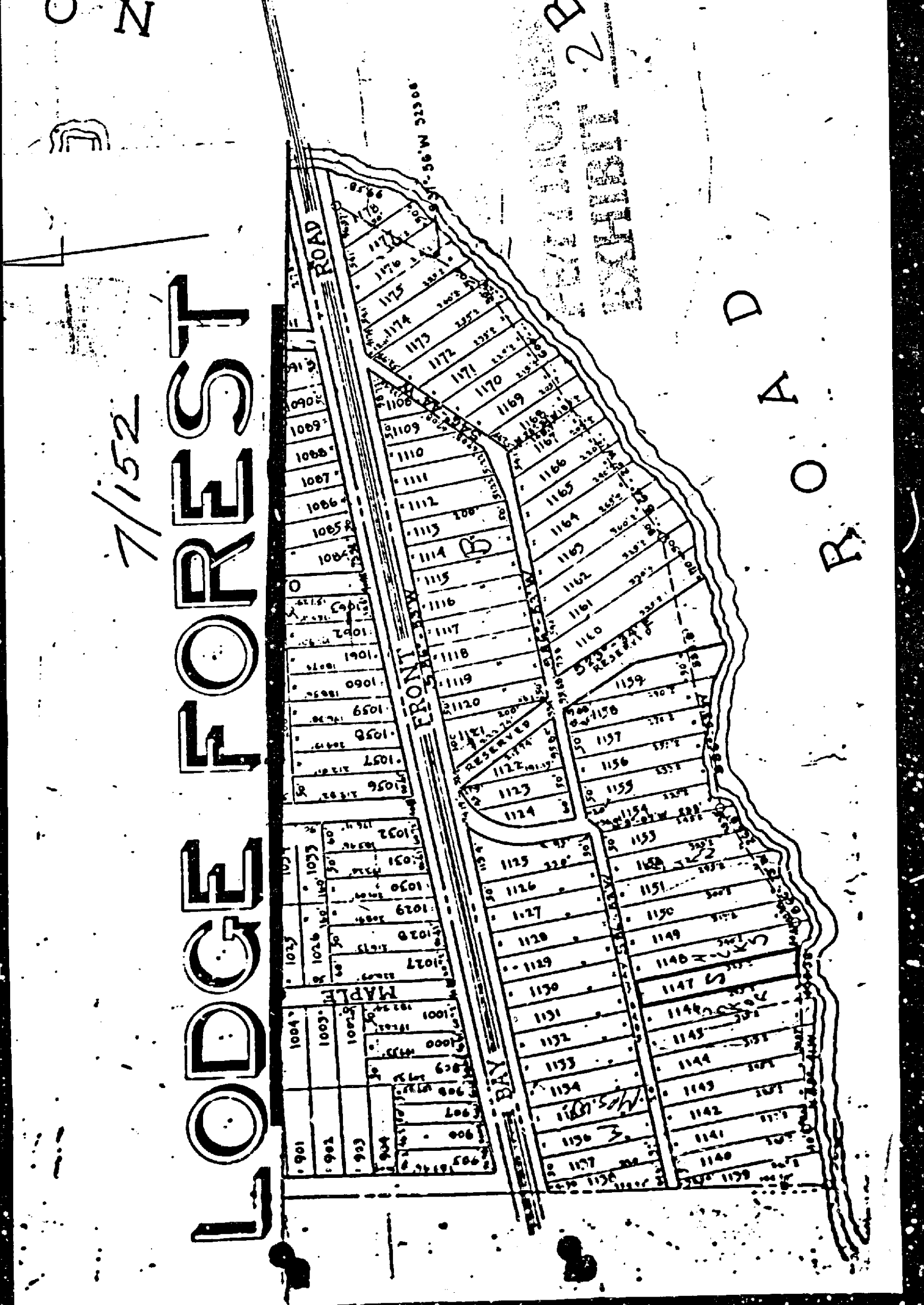
Zoning Petition Nos. 88-304-A, 88-305-A,
SUBJECT: 88-306-A, 88-307-SPH, 88-308-A, 88-309-A

Date: December 21, 1987

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

Norman E. Gerber per J. Haines
Norman E. Gerber, AICP
Director

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



RE: PETITION FOR SPECIAL HEARING BEFORE THE ZONING COMMISSIONER
S/S Iroquois Ave., 370' E of C/L Lodge Farm Rd. (7513 Iroquois Ave.), 15th District
OF BALTIMORE COUNTY
CASE #88-307-SPH
ANDREW L. STRAKA, et ux
Petitioners

MOTION PURSUANT TO RULE IV OF THE ZONING COMMISSION TO ACCEPT TESTIMONY TAKEN OUT OF THE HEARING

Petitioners by Ralph Rothwell, their attorney hereby move this Honorable Zoning Commission to accept testimony of witnesses, Mary Batchelor and Kenyon Batchelor procured by deposition at their residence near Pittsburgh, Pennsylvania on April 29, 1988 and attached to this Motion as Exhibits One and Two. This is proffered within the ten days set by this tribunal, but without the consent of protestants.

Rule IV-B of the Zoning Commission on hearing and testimony permits the Zoning Commissioner the discretion to accept written evidence or testimony under Affidavit or otherwise submitted. Petitioners submit that good cause exists in this case as the testimony is that of persons who have closest and best knowledge of property at issue and are out of the jurisdiction and beyond the subpoena power of this tribunal. Mary Batchelor, as her testimony shows is a daughter of the person who constructed the building which is the primary subject of this case. Her husband also has personal knowledge of the construction of the structure in question, in fact his recollection seems better than hers. Further as to the showing for good cause, the parties reside in the vicinity of Pittsburgh, Pennsylvania (some 275 miles away) in the town of Leechburg and are therefore beyond the jurisdiction of the Zoning Commission or the Circuit Court for Baltimore County for purposes of the issuance of subpoenas to compel them to testify in person before this tribunal.

It is in the interests of justice that these depositions be admitted as they are dispositive of the salient issue, the non-conforming use issue. A ruling without consideration of their testimony would work an extreme hardship on the Petitioners. The Zoning Commissioner has by Rule IV-G the discretion to adjourn and reconvene hearings or accept additional evidence. The consent of parties or protestants is not required. Petitioners offer this testimony and pray it be admitted and considered.

Respectfully submitted,

Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.

MEMORANDUM OF POINTS AND AUTHORITIES

Rules of Zoning Commissioner of Baltimore County, IV-B and IV-G

Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.
Maslan, Maslan & Rothwell, P.A.
7508 Eastern Avenue
Baltimore, Maryland 21224
282-2700

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of May, 1988 a copy of the foregoing Motion was mailed postage prepaid to Clara Hicks, 7515 Iroquois Road, Baltimore, Maryland 21219, Rosemary Skokore, 7511 Iroquois Road, Baltimore, Maryland 21219, Mrs. Blusiewicz, 7519 Iroquois Road, Baltimore, Maryland 21219 and Phyllis Friedman, Peoples Counsel for Baltimore County, Old Court House, Towson, Maryland 21204.

Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.

RE: Petition for Special Hearing BEFORE THE
South Side Iroquois Avenue ZONING COMMISSIONER
370' East of c/l of Lodge Farm Road (7513 Iroquois Avenue) 15th District
OF BALTIMORE COUNTY
ANDREW L. STRAKA, Et al.
Petitioners
CASE NO: 88-307-SPH

MOTION TO ENTER APPEARANCE AND RESCIND DISMISSAL

Please enter the appearance of Ralph K. Rothwell, Jr., in the above captioned matter on behalf of Petitioners, Andrew L. Straka, Frances P. Straka, his wife.

It is hereby requested that the dismissal of the Request for Permit to build a garage which was tendered on February 19, 1988, it is hereby rescinded thereby reinstating the original Request for Special Hearing to permit an accessory building.

Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.
MASLAN, MASLAN & ROTHWELL, P.A.
7508 Eastern Avenue
Baltimore, Maryland 21224
(301) 282-2700

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this 8th day of March, 1988, I caused to be mailed, postage prepaid, a copy of the foregoing Motion to Ann M. Nastarowicz, Deputy Zoning Commissioner of Baltimore County, Office of Planning and Zoning, Towson, Maryland 21204; Phyllis Cole Friedman, People's Counsel of Baltimore County, Room 223, Courthouse, Towson, Maryland 21204.

Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.
RECEIVED
MAR 9 1988

ZONING OFFICE

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21284
494-3333
J. Robert Haines
Zoning Commissioner

June 24, 1988



Dennis F. Rasmussen
County Executive

Ralph K. Rothwell, Jr., Esquire
Maslan, Maslan & Rothwell
7508 Eastern Avenue
Baltimore, Maryland 21224

RE: PETITION FOR SPECIAL HEARING
S/S Iroquois Avenue, 370' E of the c/l of Lodge Farm Road
(7513 Iroquois Avenue)
15th Election District; 7th Councilmanic District
Andrew L. Straka, et ux - Petitioners
Case No. 88-307-SPH

Dear Mr. Rothwell:

Enclosed please find the decision rendered on the above-referenced case. The Petition for Special Hearing has been denied in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 494-3391.

Very truly yours,

Ann M. Nastarowicz
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs
Enclosures
cc: Rosemary Shkor
Clara Hicks
Mr. Lewis D. Burn
Nora Blusiewicz
Diane Paper
People's Counsel
File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21284
494-3333

J. Robert Haines
Zoning Commissioner

August 23, 1988



Dennis F. Rasmussen
County Executive

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Hearing
S/S Iroquois Avenue, 370' E of the c/l of Lodge Farm Road
(7513 Iroquois Avenue)
15th Election District, 7th Councilmanic District
ANDREW L. STRAKA, ET UX - Petitioners
Case No. 88-307-SPH

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on July 13, 1988 by Ralph K. Rothwell, Jr., Attorney on behalf of the Petitioners. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the hearing when it has been scheduled. If you have any questions regarding 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: Ralph K. Rothwell, Jr., Esquire, Maslan, Maslan and Rothwell, P.A., 7508 Eastern Avenue, Baltimore, Md. 21224

Rosemary Skokor, 7511 Iroquois Road, Baltimore, Md. 21219

Clara Hicks, 7515 Iroquois Road, Baltimore, Md. 21219

Lewis D. Burn, 521 Iroquois Road, Baltimore, Md. 21219

Nora Blusiewicz, 7701 S. Cove Road, Baltimore, Md. 21219

People's Counsel, Rm. 304, County Office Bldg., Towson, Md. 21204

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

No. 52838

M. MICHAEL MASLAN
GARY R. MASLAN
RALPH K. ROTHWELL, JR.
LINDA EVE PERCY
DATE: 7-14-88 ACCOUNT: 001-006-6150 (301) 282-2700
AMOUNT: \$ 90.00

RECEIVED FROM: MASLAN, MASLAN & ROTHWELL

FOR: APPEAL FILING - CASE # 88-307-SPH

ANDREW L. STRAKA ET UX - PETITIONERS

C B 077*****9000*a 2144F

VALIDATION OR SIGNATURE OF CASHIER

S/S Iroquois Avenue, 370' E of the
c/l of Lodge Farm Road
(7513 Iroquois Avenue)
15th Election District;
7th Councilmanic District
Andrew L. Straka, et ux - Petitioners
Case No. 88-307-SPH

Dear Commissioner Haines:

On June 24, 1988 Deputy Zoning Commissioner Nastarowicz entered an Order and Opinion denying the Petitioners Petition for Special Hearing to approve the non-conforming use of the subject property as one lot with two existing dwellings (1 two family and 1 single family) and their request for an accessory building. Please docket our appeal of this matter to the Board of Appeals for Baltimore County.

I enclose a copy of the findings of fact and conclusions of law in this matter along with my trust check in the amount of \$90.00 to cover the costs involved. Please keep us posted as to the new date for hearing at the Board of Appeals. I thank you for your assistance in this matter.

Very truly yours,
Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.

RKR/mfs

CC: Andrew Straka
Ann M. Nastarowicz

RECEIVED ZONING OFFICE
DATE: 7/23/88

MASLAN, MASLAN AND ROTHWELL, P.A.

M. MICHAEL MASLAN
GARY R. MASLAN
RALPH K. ROTHWELL, JR.
LINDA EVE PERCY

ATTORNEYS AT LAW
7508 EASTERN AVENUE
BALTIMORE, MARYLAND 21224

TEL: (301) 282-2700

October 27, 1988

County Board of Appeals
of Baltimore County
Room 315, County Office Building
Towson, Maryland 21204

RE: Petition for Special Hearing
S/S Iroquois Avenue
370' E. of C/L Lodge
Farm Road (7513 Iroquois Ave.),
15th District
Andrew L. Straka, Et ux, Petitioners
No. 88-307-SPH

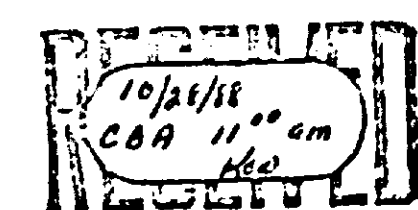
Dear Clerk:

Enclosed please find an original and two copies of subpoenas in reference to the above captioned matter. Please forward same to the Sheriff for service.

Very truly yours,
Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.

RKR/saw

Enclosures



COUNTY BOARD OF APPEALS

IN RE:

PETITION FOR SPECIAL HEARING

S/S Iroquois Ave.,
370' E. of C/L Lodge
Farm Road (7513
Iroquois Ave.), 15th
District

ANDREW L. STRAKA,
et ux, Petitioners

Mr. Clerk:

Please issue a Subpoena to the following named person:

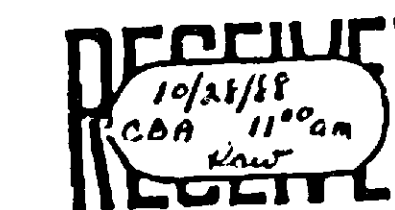
Mrs. Dale Warner, Jr.
7503 Bayfront Rd.
Baltimore, Maryland 21219

to be and appear on Wednesday, December 14, 1988 at 10 A.M. at the County Boards of Appeals of Baltimore County, Hearing Room #301, County Office Building, Towson, Maryland 21204 and to testify for the Petitioners in the above entitled matter.

Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.
Maslan, Maslan & Rothwell, P.A.
7508 Eastern Avenue
Baltimore, Maryland 21204
282-2700

Mr. Sheriff:
Please issue the above summons.

County Board of Appeals



COUNTY BOARD OF APPEALS 979
Jstrawn

IN RE: PETITION FOR SPECIAL HEARING

S/S Iroquois Ave.,
370' E. of C/L Lodge
Fram Road (7513
Iroquois Av.), 15th
District

No: 88-307-SPH

ANDREWS L STRAKA,
et ux, Petitioners

SUBPOENA

Mr. Clerk:

Please issue a Subpoena to the following named person:
Ms. Delores Fraley
2107 Creek Road
Baltimore, Maryland 21219

to be and appear on Wednesday, December 14, 1988 at 10: A.M. at the County Boards of Appeals of Baltimore County, Hearing Room #301, County Office Building, Towson, Maryland 21204 and to testify for the Petitioners in the above entitled matter.

Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.
Maslan, Maslan & Rothwell, P.A.
7508 Eastern Avenue
Baltimore, Maryland 21204
282-2700

Mr. Sheriff:
Please issue the above summons.

County Board of Appeals

RECEIVED
10/25/88
11:00 am
CBA

COUNTY BOARD OF APPEALS

IN RE: PETITION FOR SPECIAL HEARING

S/S Iroquois Ave.,
370' E. of C/L Lodge
Fram Road (7513
Iroquois Av.), 15th
District

No: 88-307-SPH

ANDREW L STRAKA,
et ux, Petitioners

SUBPOENA

Mr. Clerk:

Please issue a Subpoena to the following named person:
Kenyon S. Batchelor
Rd. 2, Box 295
Leechburg, Pennsylvania 15656

to be and appear on Wednesday, December 14, 1988 at 10 A.M. at the County Boards of Appeals of Baltimore County, Hearing Room #301, County Office Building, Towson, Maryland 21204 and to testify for the Petitioners in the above entitled matter.

Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.
Maslan, Maslan & Rothwell, P.A.
7508 Eastern Avenue
Baltimore, Maryland 21204
282-2700

Mr. Sheriff:
Please issue the above summons.

County Board of Appeals

RECEIVED
11/10/88
12:14 PM
CBA

To be served by private process server.

COUNTY BOARD OF APPEALS 974
Jstrawn

IN RE: PETITION FOR SPECIAL HEARING

S/S Iroquois Ave.,
370' E. of C/L Lodge
Fram Road (7513
Iroquois Av.), 15th
District

No: 88-307-SPH

ANDREWS L STRAKA,
et ux, Petitioners

SUBPOENA

Mr. Clerk:

Please issue a Subpoena to the following named person:
Mrs. Dale Warner, Jr.
7503 Bayfront Road
Baltimore, Maryland 21219

to be and appear on Wednesday, December 14, 1988 at 10 A.M. at the County Boards of Appeals of Baltimore County, Hearing Room #301, County Office Building, Towson, Maryland 21204 and to testify for the Petitioners in the above entitled matter.

Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.
Maslan, Maslan & Rothwell, P.A.
7508 Eastern Avenue
Baltimore, Maryland 21204
282-2700

Mr. Sheriff:
Please issue the above summons.

County Board of Appeals

RECEIVED
10/25/88
11:00 am
CBA

COUNTY BOARD OF APPEALS 979
Jstrawn

IN RE: PETITION FOR SPECIAL HEARING

S/S Iroquois Ave.,
370' E. of C/L Lodge
Fram Road (7513
Iroquois Av.), 15th
District

No: 88-307-SPH

ANDREWS L STRAKA,
et ux, Petitioners

SUBPOENA

Mr. Clerk:

Please issue a Subpoena to the following named person:
Mrs. Dale Warner, Jr.
7503 Bayfront Road
Baltimore, Maryland 21219

to be and appear on Wednesday, December 14, 1988 at 10 A.M. at the County Boards of Appeals of Baltimore County, Hearing Room #301, County Office Building, Towson, Maryland 21204 and to testify for the Petitioners in the above entitled matter.

Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.
Maslan, Maslan & Rothwell, P.A.
7508 Eastern Avenue
Baltimore, Maryland 21204
282-2700

Mr. Sheriff:
Please issue the above summons.

County Board of Appeals

RECEIVED
10/25/88
11:00 am
CBA

COUNTY BOARD OF APPEALS 979
Jstrawn

IN RE: PETITION FOR SPECIAL HEARING

S/S Iroquois Ave.,
370' E. of C/L Lodge
Fram Road (7513
Iroquois Av.), 15th
District

No: 88-307-SPH

ANDREWS L STRAKA,
et ux, Petitioners

SUBPOENA

Mr. Clerk:

Please issue a Subpoena to the following named person:
Mr. Gilbert Barr
7711 Bayfront Road
Baltimore, Maryland 21219

to be and appear on Wednesday, December 14, 1988 at 10 A.M. at the County Boards of Appeals of Baltimore County, Hearing Room #301, County Office Building, Towson, Maryland 21204 and to testify for the Petitioners in the above entitled matter.

Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.
Maslan, Maslan & Rothwell, P.A.
7508 Eastern Avenue
Baltimore, Maryland 21204
282-2700

Mr. Sheriff:
Please issue the above summons.

County Board of Appeals

RECEIVED
10/25/88
11:00 am
CBA

COUNTY BOARD OF APPEALS 979
Jstrawn

IN RE: PETITION FOR SPECIAL HEARING

S/S Iroquois Ave.,
370' E. of C/L Lodge
Fram Road (7513
Iroquois Av.), 15th
District

No: 88-307-SPH

ANDREWS L STRAKA,
et ux, Petitioners

SUBPOENA

Mr. Clerk:

Please issue a Subpoena to the following named person:
Mr. Richard Szymanski
7501 Iroquois Road
Baltimore, Maryland 21219

to be and appear on Wednesday, December 14, 1988 at 10 A.M. at the County Boards of Appeals of Baltimore County, Hearing Room #301, County Office Building, Towson, Maryland 21204 and to testify for the Petitioners in the above entitled matter.

Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.
Maslan, Maslan & Rothwell, P.A.
7508 Eastern Avenue
Baltimore, Maryland 21204
282-2700

Mr. Sheriff:
Please issue the above summons.

County Board of Appeals

RECEIVED
10/25/88
11:00 am
CBA

COUNTY BOARD OF APPEALS 481

RE: PETITION FOR SPECIAL HEARING * BEFORE THE ZONING COMMISSIONER

S/S Iroquois Ave., 370' E of * OF BALTIMORE COUNTY

C/L Lodge Farm Rd. (7513 * CASE #88-307-SPH

Iroquois Ave.), 15th District

ANDREW L. STRAKA, et ux

Petitioners

SUMMONS TO TESTIFY

Mr. Clerk:

Please issue subpoena for the following:
Ms. Delores Fraley
2107 Creek Road
Baltimore, Maryland 21219

Gilbert Barr
7711 Bayfront Road
Baltimore, Maryland 21219

and to appear at the Baltimore County Zoning Board, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204 on April 26, 1988 at 2:00 P.M. and to testify for Andrew Straka herein in the above entitled matter.

Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.
Maslan, Maslan & Rothwell
7508 Eastern Avenue
Baltimore, Maryland 21224
282-2700

Please issue in accordance with the Zoning Commissioner's Rule.

Ann M. Nastarowicz
Ann M. Nastarowicz
Deputy Zoning Commissioner

COUNTY BOARD OF APPEALS 481
Jstrawn

RE: PETITION FOR SPECIAL HEARING * BEFORE THE ZONING COMMISSIONER

S/S Iroquois Ave., 370' E of * OF BALTIMORE COUNTY

C/L Lodge Farm Rd. (7513 * CASE #88-307-SPH

Iroquois Ave.), 15th District

ANDREW L. STRAKA, et ux

Petitioners

SUMMONS TO TESTIFY

Mr. Clerk:

Please issue subpoena for the following:
Ms. Delores Fraley
2107 Creek Road
Baltimore, Maryland 21219

Gilbert Barr
7711 Bayfront Road
Baltimore, Maryland 21219

and to appear at the Baltimore County Zoning Board, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204 on April 26, 1988 at 2:00 P.M. and to testify for Andrew Straka herein in the above entitled matter.

Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.
Maslan, Maslan & Rothwell
7508 Eastern Avenue
Baltimore, Maryland 21224
282-2700

Please issue in accordance with the Zoning Commissioner's Rule.

Ann M. Nastarowicz
Ann M. Nastarowicz
Deputy Zoning Commissioner

9/30/83 - Following notified of hearing set for Wed. Dec. 14, 1988, at 10 a.m.:

Ralph K. Rothwell, Jr., Esq.
Andrew Straka, et ux
R. Skkor
C. Hicks
L. Burn
N. Bluswicz
People's Counsel
D. Fields
R. Haines, A. Nastarowicz, J. Dyer, D. Clerk

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Owen Stephens
Docket Clerk
Date: February 29, 1989

FROM: Ann M. Nastarowicz, AMN
Deputy Zoning Commissioner

SUBJECT: Petition for Special Hearing
S/S Iroquois Avenue, 370' E of
the c/l of Lodge Farm Road
(7513 Iroquois Avenue)
15th Election District - 7th Councilmanic District
Case No. 88-307-SPH

Please be advised that I have continued the above-referenced case which must be scheduled on one of my hearing dates as I took original testimony from witnesses. In addition, the property must be reposted and all persons listed on the attached protestant's sign-in sheet must be notified of the new hearing date and time. Please place this note and Protestants list in file.

If you have any questions on the subject, please do not hesitate to see me.

AMN:bjs
cc: File

2/4/89 Owen per our discussion hearing reset for
4/16/88 at 2:00pm



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

February 22, 1989

Ralph K. Rothwell, Jr., Esquire
MASLAN, MASLAN AND ROTHWELL, P.A.
7508 Eastern Avenue
Baltimore, MD 21224

RE: Case No. 88-307-SPH
Andrew L. Straka, et ux

Dear Mr. Rothwell:

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: Mr. & Mrs. Andrew L. Straka
Ms. Clara Hicks
Ms. Rosemary Skkor
Mr. Lewis D. Burn
Ms. Nora Bluswicz
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
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

January 24, 1989

Ralph K. Rothwell, Jr., Esquire
MASLAN, MASLAN AND ROTHWELL, P.A.
7508 Eastern Avenue
Baltimore, MD 21224

RE: Case No. 88-307-SPH
Andrew L. Straka, et ux

Dear Mr. Rothwell:

As requested, enclosed is a copy of the Motion for Reconsideration which was filed by Clara Hicks, Protestant, in the subject case.

Sincerely,

Kathleen C. Weidenhammer
Administrative Secretary

Encl.

1/25/89 - Notice of Assignment sent to following: Pursuant to Board's Ruling on Motion for Reconsideration dated 1/23/89 - additional hearing as set forth in Ruling to be had on Wednesday, Feb. 15, 1989 at 1:30 p.m.:

R. K. Rothwell, Jr., Esq.
M/M Straka
Ms. R. Skkor
C. Hicks
L. Burn
N. Bluswicz
PC
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
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

HEARING ROOM -
Room 301, County Office Building

January 25, 1989

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. 88-307-SPH

ANDREW L. STRAKA, ET UX
S/S Iroquois Avenue, 370' E of c/l of
Lodge Farm Road (7513 Iroquois Avenue)
15th Election District
7th Councilmanic District
SPH - Nonconforming lot w/two dwellings
existing; accessory building (garage)
6/24/88 - Z.C.'s order: that Petition for
Special Hearing be DENIED.

This case has been set for additional hearing as stated in the Board's Ruling on Motion for Reconsideration dated January 23, 1989 in a manner as set forth in the Ruling, and has been

ASSIGNED FOR: WEDNESDAY, FEBRUARY 15, 1989 at 1:30 p.m.

cc: Ralph K. Rothwell, Jr., Esquire
Mr. & Mrs. Andrew Straka
Ms. Rosemary Skkor
Ms. Clara Hicks
Mr. Lewis D. Burn
Ms. Nora Bluswicz
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

Kathleen C. Weidenhammer
Administrative Secretary



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

March 15, 1989

Mr. Drew Civiletti
Fedder & Garten
36 S. Charles Street, Suite 300
Baltimore, Maryland 21201

Re: Andrew L. Straka, et ux
Case No. 88-307-SPH

Dear Mr. Civiletti:

Per your request of this date, enclosed please find a copy of the Board's Opinion rendered December 23, 1988, as well as a second Opinion dated February 22, 1989 which affirmed the earlier decision in connection with the above.

If I can be of any further assistance to you, please do not hesitate to contact me.

Very truly yours,
Lindalee M. Kuzmaul
Lindalee M. Kuzmaul
Legal Secretary

Enclosures

RECEIVED
COUNTY BOARD OF APPEALS
89 JAN 23 AM 11:40

477-3645
Mo. D.A.M.

7515 Iroquois Avenue
Baltimore, Maryland 21219
January 23, 1989

Clerk, County Board of Appeals
of Baltimore County
County Office Building
111 West Chesapeake Avenue, Room 315
Towson, Maryland 21204

Re: Andrew L. Straka, et ux
Case No. 88-307-SPH

Dear Sir:

Enclosed herewith is a Motion for Reconsideration and Memorandum in Support Thereof which I would appreciate your accepting for filing.

Very truly yours,

Clara Hicks
Clara Hicks

CH:gw
Enclosure
cc: Arnold Jablon, Esquire, County Atty.
Ralph K. Rothwell, Esquire

IN THE MATTER OF
THE APPLICATION OF
ANDREW L. STRAKA, ET UX
FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE SOUTH SIDE OF
IROQUOIS AVENUE, 370' EAST OF THE
CENTERLINE OF LODGE FARM ROAD
(7513 IROQUOIS AVENUE)
15th ELECTION DISTRICT
7th COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 88-307-SPH

MOTION FOR RECONSIDERATION AND
MEMORANDUM IN SUPPORT THEREOF

Clara Hicks hereby files this motion for reconsideration of the opinion rendered December 23, 1988 by the County Board of Appeals of Baltimore County in the above-captioned matter, and in support thereof states as follows:

1. Clara Hicks was and is the Protestant in the subject case.
2. A petition for special hearing by the Deputy Zoning Commissioner of Baltimore County was filed by Petitioners Mr. and Mrs. Andrew Straka requesting the approval of nonconforming use of the subject property as one lot with two existing dwellings (one two-family and one single family) and to permit an accessory building (garage) on the same lot.
3. Both requests were denied in that Petitioners had not established that the two family dwelling had been constructed and inhabited as such prior to January 2, 1945 and because the proposed garage construction was not necessary and would be detrimental to the surrounding neighborhood.

07:11:11 22 JAN 69
COUNTY BOARD OF APPEALS
CHESAPEAKE

4. Petitioners appealed said decision to the County Board of Appeals of Baltimore County requesting that Rule IV be applied to accept testimony taken out of the hearing and subsequently presented additional testimony.
5. Said County Board of Appeals of Baltimore County in its Opinion and Order dated December 23, 1988 denied Petitioner's request for approval of the accessory building (garage) and allowed the continuance of the two-apartment dwelling having been convinced that said property existed as a nonconforming use since prior to 1945.
6. Petitioner has received information from additional witnesses. Mrs. Cris Lawrenson will testify that she resided at 7501 Bayfront Road in the early forties and no apartment existed at that time. More importantly, Mr. and Mrs. Harold Pritchard resided at 7506 Iroquois Road for four years ending July, 1945, and will testify that there was no apartment dwelling at the time they moved from this area.
7. Said dwelling to be granted non-conforming use must have existed and been used as rental property prior to January 2, 1945.

Therefore, based upon the proposed testimony, Protestant requests that her motion for reconsideration be granted.

Clara Hicks
Clara Hicks
7515 Iroquois Avenue
Baltimore, Maryland 21219
(301) 877-7597

Protestant

I HEREBY CERTIFY that on this 23rd day of January, 1989, a copy of the foregoing Motion for Reconsideration and Memorandum in Support Thereof was hand delivered to Arnold Jablon, Esquire, County Attorney, 111 West Chesapeake Avenue, Baltimore, Maryland 21204, attorney for the County Board of Appeals of Baltimore County, and was mailed, postage prepaid, by first class mail, to Ralph K. Rothwell, Esquire, Maslan, Maslan and Rothwell, P.A., 7508 Eastern Avenue, Baltimore, Maryland 21224, attorney for Petitioners Mr. and Mrs. Andrew L. Straka.

Clara Hicks
Clara Hicks

Mrs. K. S. Batchelor
R. D. 2, Box 295
Leesburg, Pennsylvania 19656

July 27, 1988

Dear Mrs. Straka,

We have read over your petition facts and conclusions and are sorry they were not in your favor. As to your request to come to Baltimore, feel that my appearance would add nothing further to your case as I know nothing more than was stated in my deposition.

Also, I have had some health problems that were trying to solve at present and may not be able to appear when needed.

We wish you success in your further endeavors.

Sincerely,
Mary E. Batchelor

RE: PETITION FOR SPECIAL HEARING * BEFORE THE *
S/S Iroquois Ave., 370' E of * BALTIMORE COUNTY *
C/L Lodge Farm Rd., (7513 * BOARD OF APPEALS *
Iroquois Ave.), 15th District * *
ANDREW L. STRAKA, et ux * CASE #88-307-SPH *
Petitioner * *

MOTION TO RECEIVE EXTRA-JUDICIAL TESTIMONY

Appellants by Ralph Rothwell, their attorney hereby move this Honorable Board of Appeals to accept the testimony of witnesses procured outside of the presence of the administrative Appeal Hearing or the Zoning Hearing and previously submitted to the Zoning Board as part of the zoning case. The Appellants say in support of their said Motion the following:

1. Major and most serious portion of this case and of the original Motion for Special Hearing concerned the existence of a non-conforming use, specifically a rental dwelling containing two units located at 7513 Iroquois Avenue.
2. Testimony was produced at the hearing through specific witnesses taking back the existence of the said properties to 1949. based upon information revealed by the Protestants at the Hearing it was learned that relatives, specifically a daughter of the original builder of the property were still alive and lived somewhere in the Pittsburgh area. It was suggested by the Deputy Zoning Commissioner that the Petitioners might attempt to work with the Protestants to learn the whereabouts of those heirs. Some Protestants were old friends of those heirs and knew information about their whereabouts which was unavailable to the Petitioners. The Deputy Zoning Commissioner suggested that she would receive such additional information, statements or testimony if it was received within ten days of the said hearing. Petitioners, based on the



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 491-3180

January 4, 1989

Ms. Rosemary Skkor
7511 Iroquois Avenue
Baltimore, MD 21219

Dear Ms. Skkor:

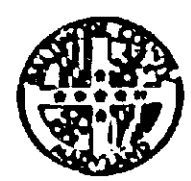
As requested, enclosed is a photocopy of Rules B-1 through B-13 of the Maryland Rules dealing with appeals taken from the County Board of Appeals to the Circuit Court for Baltimore County.

If you have any questions, please contact this office.

Very truly yours,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Secretary

Encl.



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 491-3180

HEARING ROOM #218X #301

September 30, 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. 88-307-SPH

ANDREW L. STRAKA, ET UX

7513 Iroquois Ave.

15th E. District

SPH-Nonconforming lot w/two dwellings existing; 1 (2 family) and 1 (1 family); also an accessory building (garage)

6/24/88 - That the petition for special hearing be DENIED

ASSIGNED FOR:

WEDNESDAY, DECEMBER 14, 1988, at 10 a.m.

cc: Ralph K. Rothwell, Jr., Esq. Counsel for Petitioners

Andrew Straka, et ux

Petitioners

Rosemary Skkor

Clara Hicks

Lewis D. Burn

Nora Blusiewicz

People's Counsel for Baltimore Cty.

P. David Fields

J. Robert Haines

Ann Nastarowicz

James Dyer

Docket Clerk

June Holmen, Secretary

meager information received at the Hearing from the Protestants, nonetheless through diligent and arduous efforts proceeded to track down the surviving daughter of the original builder of the structures in question and learned that the daughter was one Mary Batchelor who resided along with her husband, Kenyon Batchelor in a town some 25 miles outside of Pittsburgh, Pennsylvania. Counsel for Petitioners made telephone contact with those persons and attempted to arrange a time when he could receive from them a statement regarding the construction of the structures at issue in this case. Petitioners counsel pursuant to instructions from the Assistant Zoning Commissioner contacted the Protestants (specifically through the person of one Clara Hicks) to advise the action being taken and request, any input and/or assistance from the said Protestants. The response of the Protestants as represented to Petitioners counsel by Mrs. Clara Hicks was that they would object to any such action, they would not join in the taking of any additional testimony, and they would object to presenting such testimony to the Zoning Commission.

3. As the witness, Mary Batchelor and her husband, Kenyon Batchelor appeared to be the only remaining persons with first hand personal knowledge of the construction and existence of the structures, and as the Petitioners were under a ten day requirement and the Batchelors being up in years had experienced some health problems, Petitioners counsel arranged to go directly to their residence on April 29, 1988 accompanied by a court reporter, to take their testimony under oath regarding this matter.

4. Said testimony was so taken under oath with all the protections that could be afforded under the circumstances and said testimony was presented to the Deputy Zoning Commissioner within the ten day time frame. The testimony was presented along with the information that the Protestants had not consented in the action taken and continued to object to the action

2

taken. The Deputy Zoning Commissioner in her opinion declined to permit the testimony to be entered into the record and declined to take notice of the testimony although it is pertinent, material, relevant and dispositive of this case.

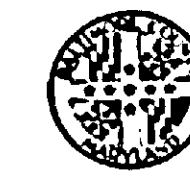
5. Kenyon Batchelor and Mary Batchelor are both retired. Mrs. Batchelor has health problems. Both have expressed their desire not to travel to Baltimore for a court proceeding. I enclose a copy of a letter dated July 27, 1988 indicating that Mary Batchelor has health problem which prevent her from traveling this distance to testify in a proceeding. Furthermore, they would not be within the subpoena power of this court as they are outside the jurisdiction of Maryland.

6. The rules of this court as cited in the memorandum attached hereto permit this tribunal to accept the testimony of Kenyon and Mary Batchelor although they are not physically present at a hearing.

7. The interests of justice require that this testimony be received. It covers the pertinent four year period between 1945 and 1949 of which other live witnesses have no knowledge. For Baltimore County, under the auspices of its Zoning Commissioner or its Board of Appeals, to fail to accept this testimony, review it, and give it whatever weight it is due, would be both a miscarriage of justice, and work a substantial hardship on the Petitioners who purchased this property in good faith and are now burdened with the requirement to go back some forty years in history.

WHEREFORE, Appellants move this Honorable Court receive and admit as part of the record into evidence the testimony of Mary Batchelor and Kenyon Batchelor, copies of which are contained in the files submitted to the Board of Appeals from the Zoning Commission and were attached originally as Exhibits to a "Motion pursuant to Rule 4 of the Zoning Commission" and a

3



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 491-3180

December 23, 1988

Ralph K. Rothwell, Jr., Esquire
MASLAN, MASLAN AND ROTHWELL, P.A.
7508 Eastern Avenue
Baltimore, MD 21224

RE: Case No. 88-307-SPH
Andrew L. Straka, et ux

Dear Mr. Rothwell:

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

Sincerely yours,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Secretary

Encl.

cc: Ms. Rosemary Skkor
Ms. Clara Hicks
Mr. Lewis D. Burn
Ms. Nora Blusiewicz
Mr. and Mrs. Andrew L. Straka
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

letter dated May 4, 1988 to the Deputy Zoning Commissioner by Petitioners counsel. The testimony speaks for itself and an examination of the testimony will reveal its relevance and materiality.

Ralph K. Rothwell, Jr.
Ralph K. Rothwell, Jr.
7508 Eastern Avenue
Baltimore, Maryland 21224
(301) 282-2700

MEMORANDUM IN SUPPORT OF MOTION

The interests of justice and equity cry out in this case for the admission of this extra-judicial testimony. Petitioners are faced with the heavy and difficult burden of going back to 1945 to show a continued non-conforming use. At the Zoning Hearing they were able to produce live witnesses who took the use back to 1949. There may have been some question as to whether or not the Deputy Zoning Commissioner believed the Petitioners witnesses over certain Protestants witnesses, but there was no question that there were certain witnesses who could go back that far. Therefore the Petitioners were left with a gap of some four years to close up or lose the use and perhaps lose the property known as the two dwelling unit rental property at the rear of 7513 Iroquois Avenue.

The Deputy Zoning Commissioner extended one hand to assist the Petitioners and with the other hand struck them down. The ambiguous extension of a ten day time frame to seek out heirs whose existence was discovered at the hearing was then withdrawn because the Protestants continued to protest - an illogical, unfair, and unjust result. This is a result which truly fits the description arbitrary, capricious, and an abuse of discretion.

Under the rules of the Board of Appeals, (testimony) "all witnesses shall testify under oath" (Rule 4(a)). The testimony proffered is under

4

oath.
 Furthermore, under Rule 7 "the Board will not be bound by the technical rules of evidence but will apply such rules to the end if needful and proper evidence shall be most conveniently, inexpensively and speedily produced while preserving the substantial rights of the parties." If ever a case existed for the application of this rule, this is it.

I do note that under Rule 4(d) depositions require the agreement of parties or counsel. While counsel may have applied the terminology deposition to the testimony in question, in fact it was an out of court statement taken by counsel under oath before a reporter and not a true deposition since the parties were not sworn as part of the proceedings nor were they under any deposition summons.

The rules provide for the receipt of documentary evidence and in fact call for testimony by expert witnesses to be submitted in writing. Clearly this is a case where the board has the authority to permit the receipt of this testimony and it is in the interest of justice that that be done.

Respectfully submitted,
Ralph X. Rothwell, Jr.
 Ralph X. Rothwell, Jr.
 Maslan, Maslan & Rothwell, P.A.
 7508 Eastern Avenue
 Baltimore, Maryland 21224
 282-2700

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27 day of September, 1988 a copy of the foregoing Motion and Memorandum was mailed postage prepaid to Clara Hicks, 7515 Iroquois Road, Baltimore, Maryland 21219, Rosemary Skore, 7511 Iroquois Road, Baltimore, Maryland 21219, Mrs. Blusiewicz, 7519

Iroquois Jnd, Baltimore, Maryland 21219, Lewis Burn, 7521 Iroquois Road Avenue, Baltimore, Maryland 21219 and Phyllis Friedman, Peoples Counsel for Baltimore County, Room 304, Old Court House, Towson, Maryland 21286

Ralph X. Rothwell, Jr.
 Ralph X. Rothwell, Jr.

*Rec'd. 9-29-88
 C.P.A. J.*

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
 S/S Iroquois Ave., 370' E of * BALTIMORE COUNTY
 C/L Lodge Farm Rd. (7513 * BOARD OF APPEALS
 Iroquois Ave.), 15th District * CASE No. 88-307-SPH
 ANDREW L. STRAKA, et ux *
 Petitioner *

ORDER

It is hereby ORDERED this _____ day of _____ 1988 that the testimony of Mary Batchelor and Kenyon Batchelor, taken under oath on April 29, 1988 and contained as Exhibits among the records of Zoning Case 88-307-SPH be and is hereby admitted into the record in this Appeal.

Board of Appeals

Pet #7

TENANTS WHO LIVED IN THE APARTMENTS SINCE WE OWNED PROPERTY:

1st floor: *John*
 Mr. & Mrs. John Riegle
 7317 North Dakota Ave.
 Baltimore, MD 21219
 477-2398
 (August 1974 thru February 1977)
 Ms. Mary Kerntke & Mr. Joseph Smith
 (March 1977 thru September 1979)

Laura Crites
 7822 Harold Road
 Baltimore, MD 21222
 282-8533
 (September 1979 thru March 1980)

James Billings
 7513 Iroquois Road
 Baltimore, MD 21219
 477-3806 (Son-477-1394)
 (April 1980 to present time)

2nd Floor:

Mr. William Smith
 (to September 1974)

Mr. & Mrs. Paul Kline
 6922 Riverdrive Road
 Baltimore, MD 21219
 388-1335
 (September 1974 to June 1976)

Mr. & Mrs. Glen Dawson & father, Ellwood Bowser
 477-2711
 (June 1976 thru January 1987)

Mrs. Marie Podles
 7513 Iroquois Road
 Baltimore, MD 21219
 (January 1987 to present time)

PETITIONER'S EXHIBIT 4

Pet #4

STATEMENT OF MITZI RIEGEL

My name is Mrs. Mitzi Riegel. I presently reside at 7317 North Dakota Avenue, Baltimore, Maryland 21219. I am familiar with 7513 Iroquois Avenue in Baltimore County, 21219. From August 1974 to February 1977, I resided in one of the two units located at the rear of that property. My sister, Becky Kline, lived in the other unit for some of that time.

I hereby state and affirm under the penalties of perjury that the above information is true and correct to the best of my knowledge, information and belief.

WITNESS

Amy R. Youell
 Amy R. Youell
 Mitzi Riegel
 DATE: April 25, 1988

PETITIONER'S EXHIBIT 5

Pet #5

STATEMENT

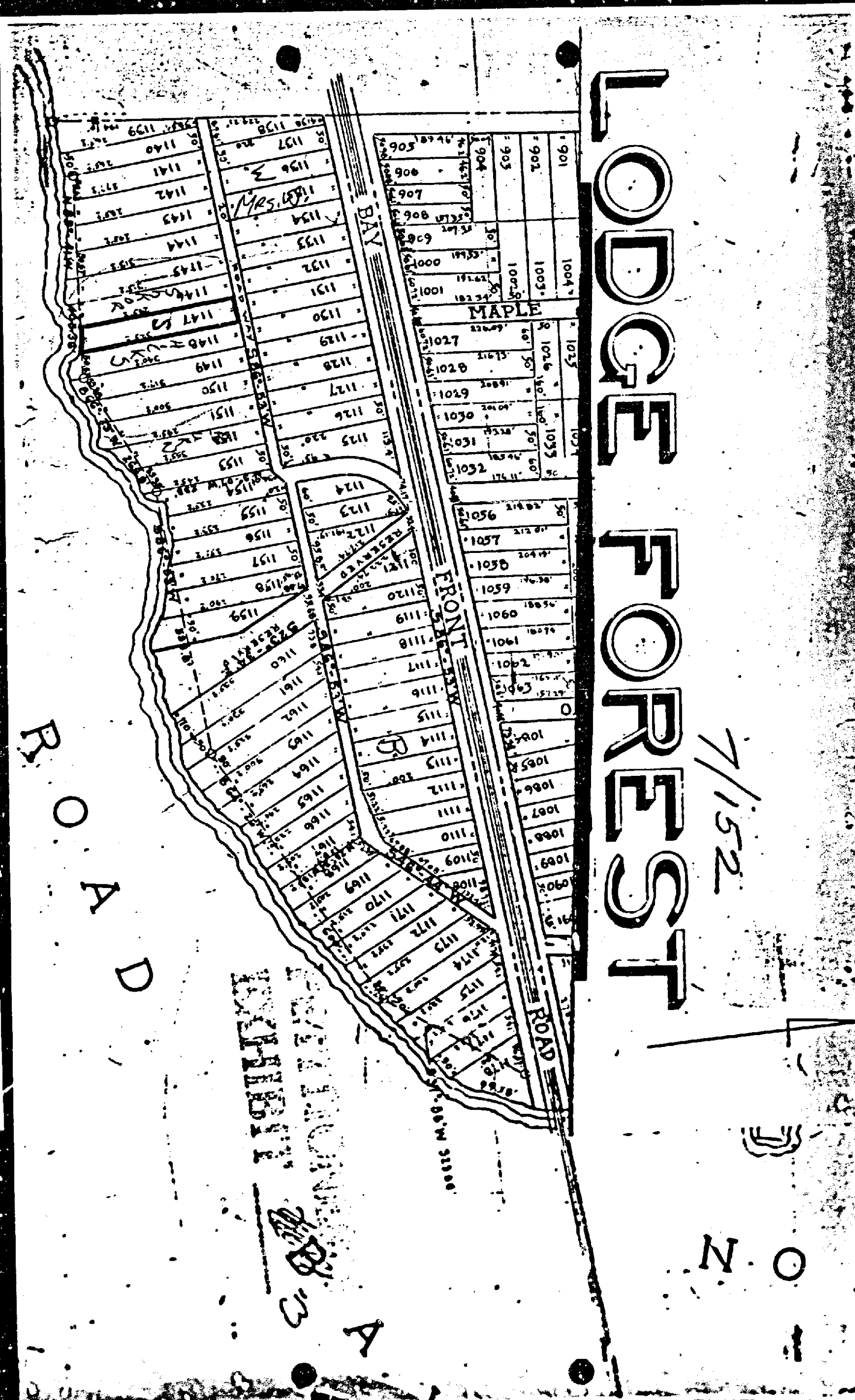
My name is Mrs. Becky Kline. I presently reside at 6922 Riverdrive road, Baltimore, Maryland 21219. I am familiar with 7513 Iroquois Avenue located in Baltimore County Maryland 21219. From 1974 through 1976 I resided in one of the two rental units located in the rear of that property. During the time that I lived there, both units were occupied as was the larger main house on the premises. Before I lived in one of the rental units, my sister Mitzi occupied one of the two rental units. Both were occupied while she was there.

I hereby state and affirm under the penalties of perjury that the above information is true and correct to the best of my knowledge, information and belief.

Witness:

Doris Hugg
 Doris Hugg
 Mrs. Becky Kline
 DATE: 4-18-88

PETITIONER'S EXHIBIT 6



LAWYER'S OFFICE
 BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

IN RE: _____)
 PETITION FOR SPECIAL)
 HEARING) No. 88-307-SPH
 S/S Iroquois Ave.,)
 370' E. of C/L Lodge)
 Farm Road (7513))
 Iroquois Av.), 15th)
 District)
 ANDREW L. STRAKA,)
 et ux, Petitioners)

R.D. 2, Box 250
 Leechburg, PA
 Friday, April 29, 1988
 10:30 a.m.

COUNSEL PRESENT:
 For the Petitioner: Maslan, Maslan & Rothwell
 by Ralph X. Rothwell, Jr., Esq.

STATEMENT OF KENYON S. BATCHELOR

Transcript of Statement
 Reported by:
 Kurt M. Ament,
 Registered Professional Reporter

Motion Exhibit #2
Pet. #7

wers and Garrison
 The Court Reporter
 Suite 214, Interior Court
 Sabrough, Pennsylvania 15219
 Phone: (412) 263-2288

LAWYER'S NOTES

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

IN RE:)
 PETITION FOR SPECIAL)
 HEARING) No. 88-307-SPH
 S/S Iroquois Ave.,)
 370 E. of C/L Lodge)
 Farm Road (7513)
 Iroquois Av.) 5th)
 District)
 ANDREW L. STRAKA,)
 et ux, Petitioners)

R.D. 2, Box 250
 Leechburg, PA
 Friday, April 29, 1988
 10:00 a.m.

COUNSEL PRESENT:
 For the Petitioner: Maslan, Maslin & Rothwell,
 by Ralph K. Rothwell, Jr., Esq.

STATEMENT OF MARY E. BATCHELOR

Transcript of Statement
 Reported by:
 Kurt M. Ament,
 Registered Professional Reporter.

Motion Exhibit #1
 Petitioner

rs and Garrison
 The Court Reporter
 810 Manor Complex
 Pgh, Pennsylvania 15219
 Phone: (412) 263-2068

LIBER 5461 PAGE 778

Ret 21

This Deed, Made this 11th day of July

in the year one thousand nine hundred and seventy-four by and between
 Mary E. Batchelor and Betty L. Furr,

of the County of Baltimore, State of Maryland, of the first part, and
 Andrew L. Straka and Frances P. Straka, his wife,
 of the second part.

Witnesseth, that in consideration of the sum of Five (\$5.00) Dollars and other good
 and valuable considerations, the receipt of which is hereby acknowledged,
 the said
 Mary E. Batchelor and Betty L. Furr,
 do hereby grant and convey unto the said
 Andrew L. Straka and Frances P. Straka, his wife, as tenants by the
 entireties, their assigns, and unto the survivor of them, his or her
 heirs and assigns,
 in fee simple, all that
 lot(s) of ground, situate, lying and being in
 the County of Baltimore, State of Maryland, and described as follows, that is to say:—

~~Beginning with the~~ All that lot of ground situate and lying and being in
 Baltimore County aforesaid being known as lot Number 1147 of Lodge Forrest
 as laid down on a plat of said property prepared by J. Spence Howard,
 Civil Engineer, which plat is recorded among the Plat Records of Baltimore
 County in Plat Book No. 7, folio 152.

BEING the same lot of ground which by Deed dated December 23, 1926, and
 recorded among the Land Records of Baltimore County in Liber WPC 640,
 folio 209, was granted and conveyed by Charles L. Renshaw, unmarried, to
 Grover M. McFarland and Melva McFarland, his wife. The said Melva
 McFarland died July 11, 1966, and the said Grover M. McFarland died on or
 about September 5, 1968, and by his Last Will and Testament, dated
 September 22, 1966, filed in the Register of Wills Office for Baltimore
 County in Wills Liber JLD 107, folio 54, he devised said property
 to Betty L. Furr and Mary E. Batchelor.

PETITIONER'S EXHIBIT 3

4 2500 WBS

LIBER 5461 PAGE 779

Together with the buildings and improvements thereupon erected, made or being and all and
 every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same
 belonging, or anywise appertaining.

To Have and To Hold the said lot of ground and premises, above described
 and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurte-
 nances and advantages thereto belonging or appertaining unto and to the proper use and benefit
 of the said
 Andrew L. Straka and Frances P. Straka, his wife, as tenants by the
 entireties, their assigns, and unto the survivor of them, his or her
 heirs and assigns,
 in fee simple.

And the said parties of the first part hereby covenant that they have
 not done or suffered to be done any act, matter or thing whatsoever, to encumber the property
 hereby conveyed; that they will warrant specially the property granted and that they will
 execute such further assurances of the same as may be requisite.

Witness the hands and seals of said grantors

Test: *Mary E. Batchelor* [SEAL]
 Mary E. Batchelor
Betty L. Furr [SEAL]
 Betty L. Furr

Robert S. Putterman

State of Maryland, County of Baltimore, to wit:
 I HEREBY CERTIFY, That on this 11th day of July, 1974,
 before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County
 , personally appeared
 Mary E. Batchelor and Betty L. Furr,
 known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to
 the within instrument and acknowledged that they executed the same for the purposes therein
 contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Robert S. Putterman
 Robert S. Putterman,
 My Commission expires JUL 15 1974 at 10:00 P.M.
 July 1, 1974 Per Elmer H. Kahline, Jr., Clerk
 Mail to Robert A. Putterman
 Receipt No. 9.00

978 102.90

RECEIVED

FROM

MAY E. BATCHELOR and
 BETTY L. FURR

7/15/74

CLERK

DAN ANDREW L. STRAKA and
 FRANCES P. STRAKA, his wife

BLOCK NO.

Received for Record 19

at o'clock M. Same day recorded

in Liber No. Folio etc.,

one of the Land Records of and examined per
 Clerk

Cost of Record, \$

ROBERT S. PUTTERMAN
 Attorney at Law
 BARONET ROAD
 OWINGS MILLS, MD. 21117

RECEIVED & RECORDED
 IN CLERK'S OFFICE FOR
 BALTO. CO.
 JUL 15 4 2:10 P.M. 1974

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