

IN RE: PETITION FOR ZONING VARIANCE
 S/S Hershey Way, 142' W of
 Lake Forest Court
 (4417 Hershey Way)
 11th Election District
 6th Councilmanic District

R. Thomas Jefferson
 Petitioner

BEFORE THE
 DEPUTY ZONING COMMISSIONER
 OF BALTIMORE COUNTY
 Case No. 89-308-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance to permit a front yard setback of 5 feet, 6 inches in lieu of the required front yard average of 25 feet, a side yard setback of 7 feet in lieu of the required 8 feet, and a sum total of side yard setbacks of 17 feet in lieu of the required 20 feet, for a proposed addition in accordance with Petitioner's Exhibit 1.

The Petitioner appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 4417 Hershey Way, consists of .13 acres zoned D.R. 5.5 and is currently improved with a single family dwelling. Petitioner proposes making first floor living accommodations for his 74-year old mother who currently resides in one of the second floor bedrooms but is having difficulty maneuvering the stairs. Petitioner testified that due to the location of an existing 10-foot utility easement and existing improvements in the rear of the subject property, the requested variance is necessary in order to construct an adequately sized addition providing a bedroom and sitting area for his mother. Petitioner argued that the granting of the variance will not result in any detriment to the health, safety or general welfare of the community. To support Petitioner's claims, Petitioner introduced pictures which clearly indicate the subject property is located at the end of a dead-end street. Further, Petitioner indicated he has spoken with

surrounding property owners who have indicated they have no objections to his plans.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

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

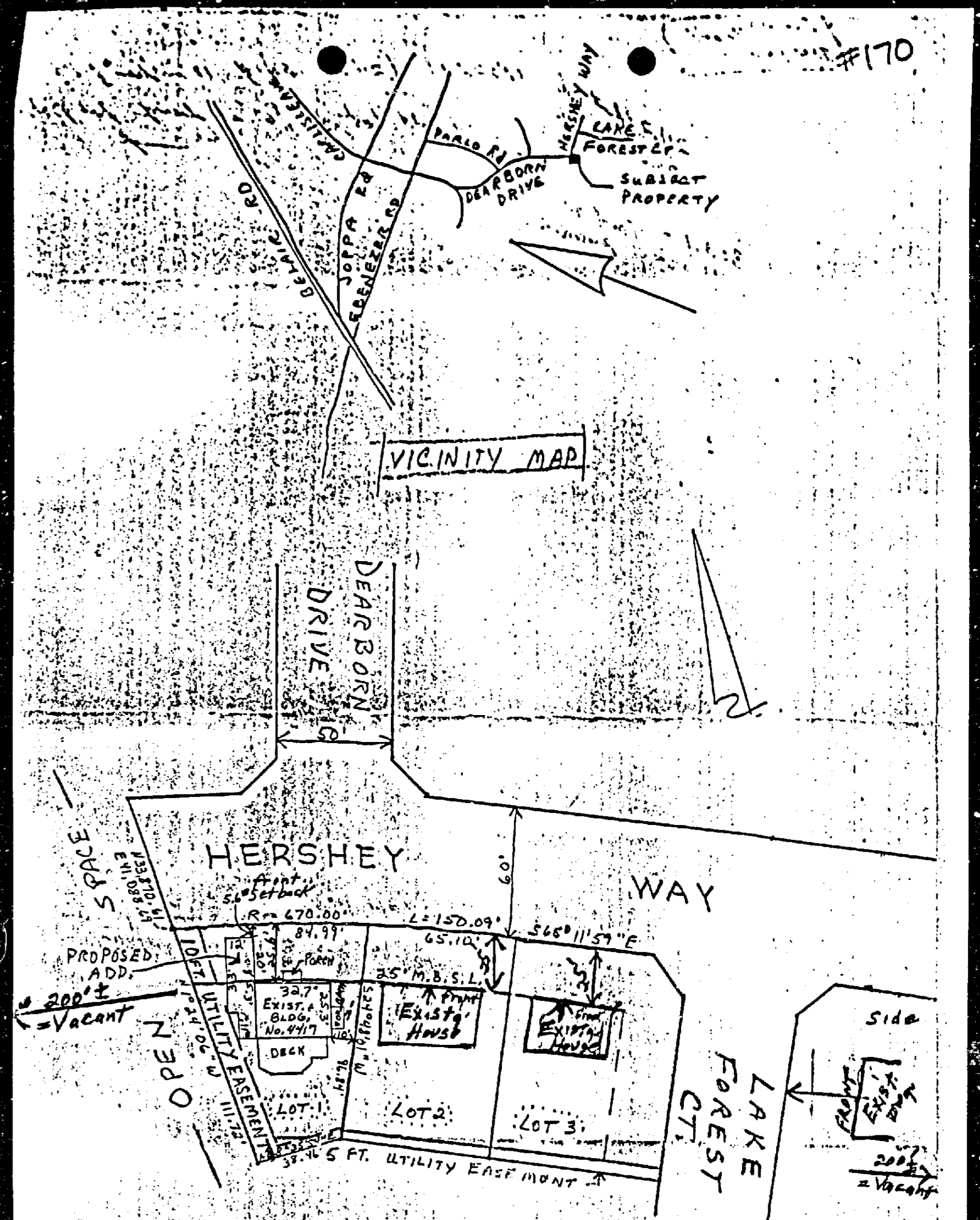
THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 15th day of March, 1989 that the Petition for Zoning Variance to permit a front yard setback of 5 feet, 6 inches in lieu of the required front yard average of 25 feet, side yard setback of 7 feet in lieu of the required 8 feet, and a sum total of side yard setbacks

of 17 feet in lieu of the required 20 feet, for a proposed addition in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restriction:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

ANN M. NASTAROWICZ
 Deputy Zoning Commissioner
 for Baltimore County

AMN:bjs



PLAT FOR ZONING VARIANCE
 OWNER - R. THOMAS JEFFERSON & DONNA M. JEFFERSON
 DISTRICT - 11 ZONED D.R. 5.5 (R-6) Lot Size: 5843.31 sq ft
 SUBDIVISION - SILVER GATE #13 Acres
 LOT 1 - BLK D - BOOK No. 31 FOLIO 139
 EXISTING UTILITIES IN HERSHEY WAY
 SCALE: 1"=50'

Petitioner's Exhibit 1
 REVISED PLANS
 1-2-89

Baltimore County
 Zoning Commissioner
 Office of Planning & Zoning
 Towson, Maryland 21284
 (301) 887-3333

March 15, 1989

Mr. R. Thomas Jefferson
 4417 Hershey Way
 Baltimore, Maryland 21236

RE: PETITION FOR ZONING VARIANCE
 S/S Hershey Way, 142' W of Lake Forest Court
 (4417 Hershey Way)
 11th Election District - 6th Councilmanic District
 R. Thomas Jefferson - Petitioner
 Case No. 89-308-A

Dear Mr. Jefferson:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

ANN M. NASTAROWICZ
 Deputy Zoning Commissioner
 for Baltimore County

AMN:ajs

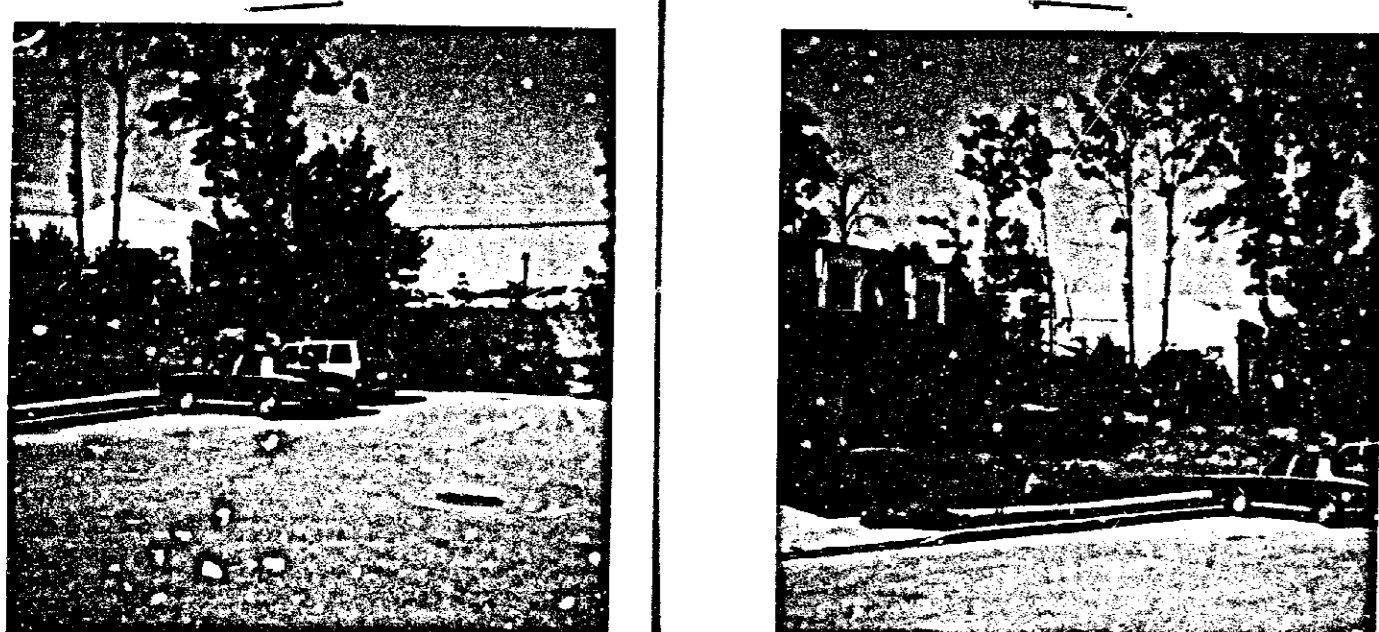
cc: People's Counsel

File

ORDER RETURNED FOR FILING
 Date 3/15/89
 By [Signature]

ORDER RETURNED FOR FILING
 Date 3/15/89
 By [Signature]

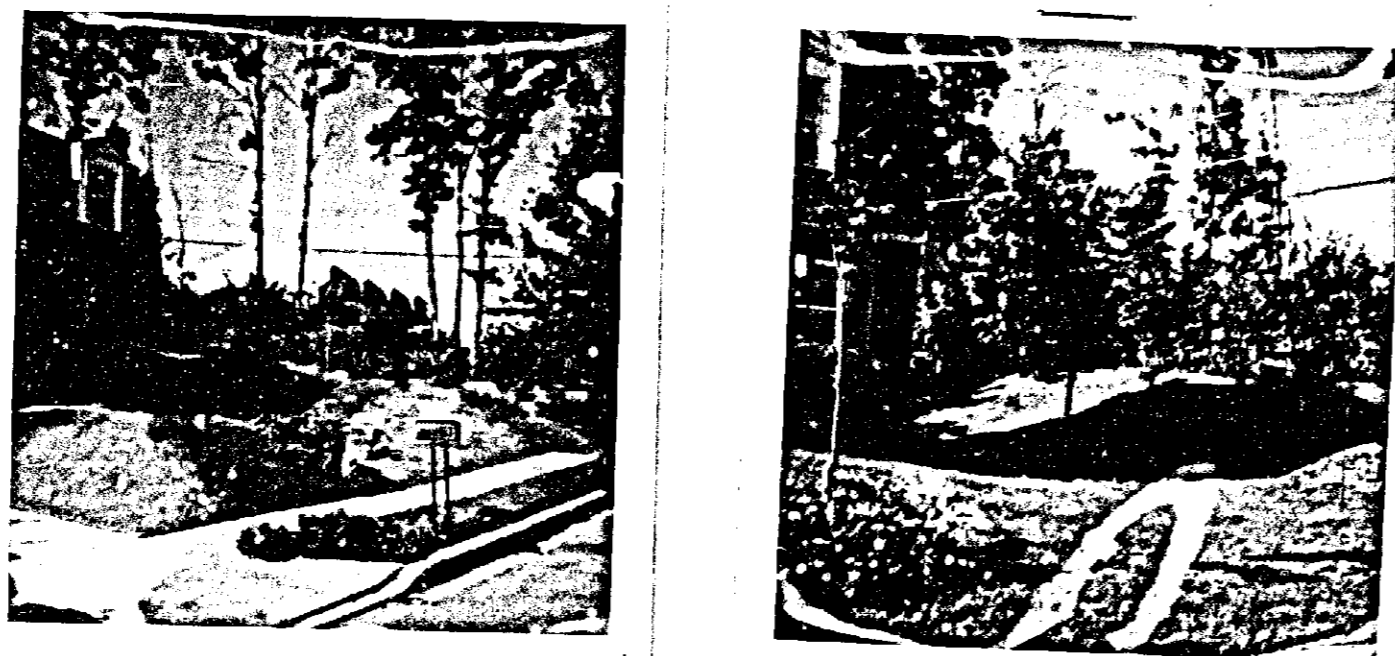
4417 HERSHEY WAY



The street on which the property is located Hershey Way is a dead end street. The property is located at the end of the street with no other houses on the street being located on the west side of the house which is the side that the proposed addition will be on. There is a townhouse development further west on the other side of an open area. These townhouses are of a sufficient distance away that the proposed addition would not have any effect on them.

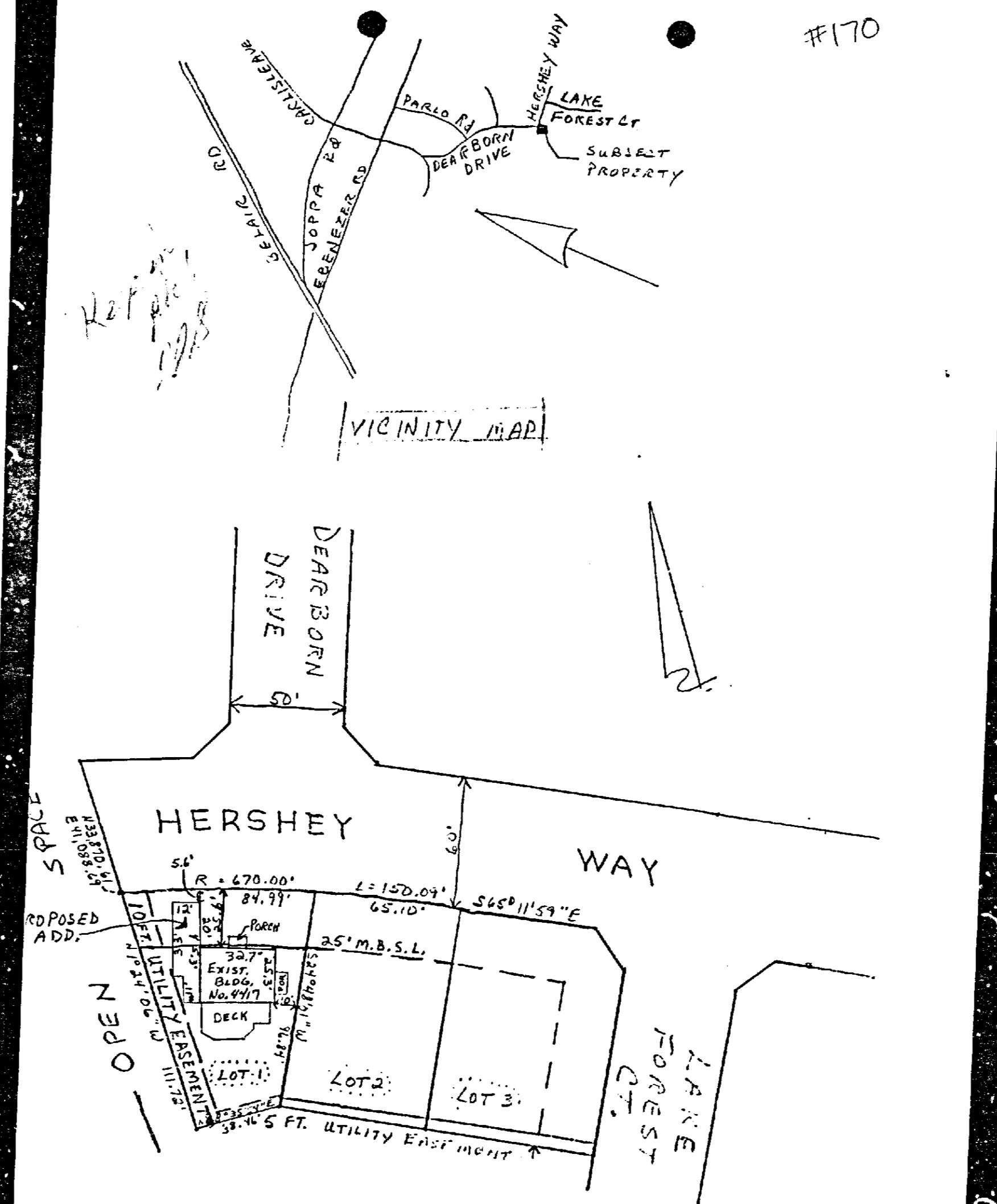
Petitioner's Exhibit 2A

4417 HERSHEY WAY

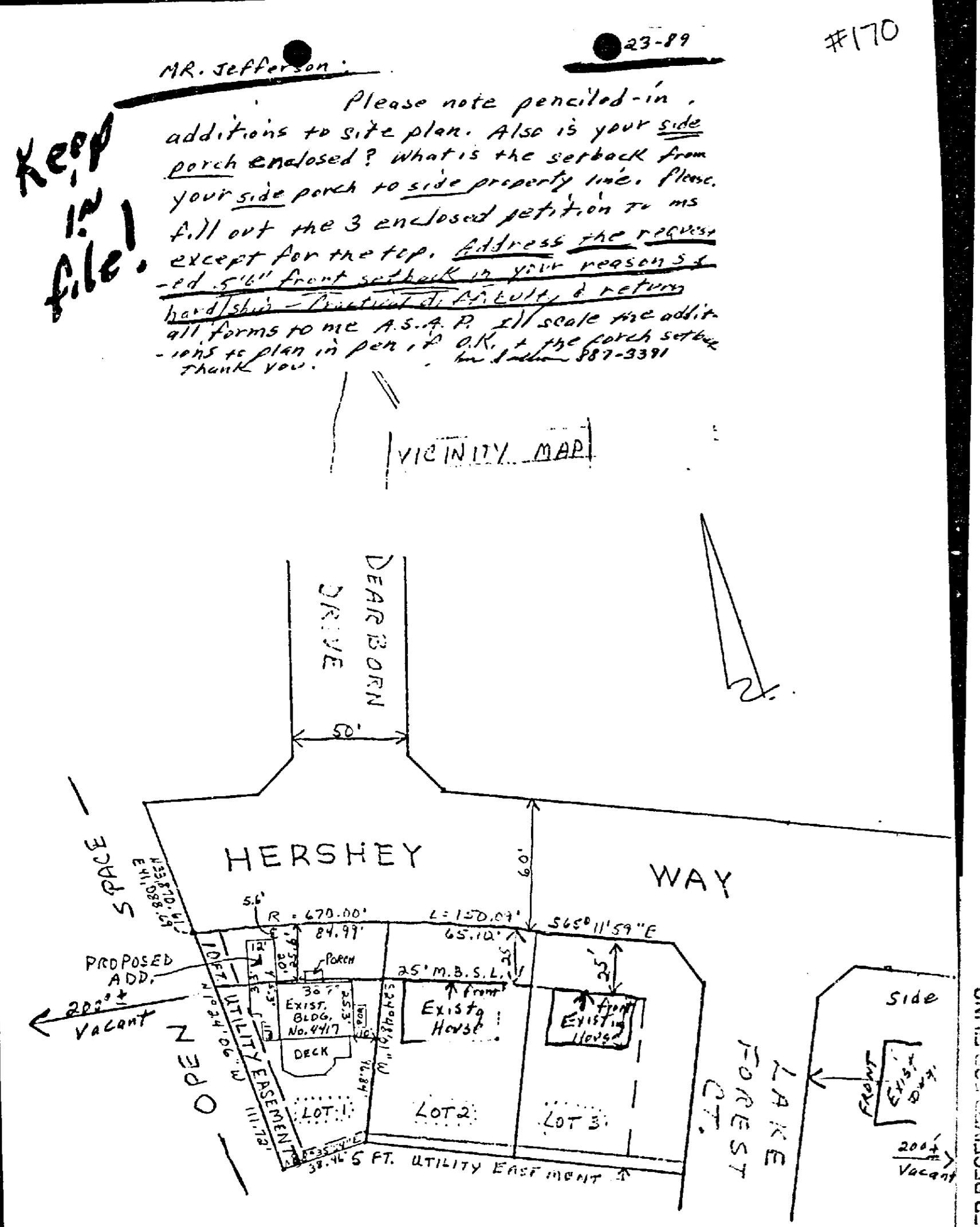


The proposed addition will be on the side of the house pictured above.

Petitioner's Exhibit 2B



PLAT FOR ZONING VARIANCE
 OWNER - R. THOMAS JEFFERSON & DONNA M. JEFFERSON
 DISTRICT - 11 ZONED D.R. 5.5 (R-6) Lot Size: 5843.31 sq ft
 SUBDIVISION - SILVER GATE #13 Acres
 LOT 1 - BLK D - BOOK No. 31 FOLIO 139
 EXISTING UTILITIES IN HERSHEY WAY
 SCALE: 1"=50'



FLAT FOR ZONING VARIANCE
 OWNER- R. THOMAS JEFFERSON
 DISTRICT- II ZONED D.R. 5-5 (R-6) Lot 500 5493.31 sq ft
 SUBDIVISION- SILVER GRIFF
 LOT 1 BLK D BOOK NO. 31 FOLIO 134
 EXISTING UTILITIES IN HERSHEY WAY
 SCALE 1"=50'

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:

Petition for Zoning Variance
 CASE NUMBER: 89-308-A
 55 Hershey Way, 142' W Lake Forest Court
 4417 Hershey Way
 11th Election District - 6th Councilmanic
 Petitioner(s) R. Thomas Jefferson
 Hearing Scheduled: Tuesday, March 7, 1989 at 3:00 p.m.

Variance to allow a front setback of 5 ft. 6 in. in lieu of the required front yard average of 25 ft. and to allow a side yard setback of 7 ft. and a sum total of 8 ft. and 20 ft., respectively.

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

J. Robert Haines
 Zoning Commissioner of Baltimore County
 cc: R. Thomas Jefferson
 File

Amended PETITION FOR ZONING VARIANCE
 TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 89-308-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.B (211.2, 211.3) 303.1 to allow a front setback of 5 ft. 6 in. in lieu of the required front yard average of 25 ft. and to allow a side yard setback of 7 ft. and a sum total of side yard setbacks of 17 ft. in lieu of the required 8 ft. and 20 ft., respectively.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) 1) A 10' Utility Easement on the side of the property makes it unable to make any reasonable use of the property for an addition to contain first floor living accommodations for my 74 year old mother. for an angle of the easement toward the back of the house does not allow sufficient space front setback. In order to do this it is requested that the front setback be changed to 6". 2) The hardship is peculiar to the subject property in contrast with other properties in the zoning district because they do not have this angling utility easement on the side of the property. 3) The hardship was not the result of the applicant's own action. The utility easement was existing prior to the applicant's purchase of the house. Property is to be posted and advertised as prescribed by Zoning Regulations.

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

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

Contract Purchaser: R. Thomas Jefferson
 (Type or Print Name)
 Signature: [Signature]
 Address: 4417 Hershey Way, Baltimore, Maryland 21236
 City and State

Legal Owner(s): R. Thomas Jefferson
 (Type or Print Name)
 Signature: [Signature]
 Address: 4417 Hershey Way, Baltimore, Maryland 21236
 City and State

Attorney for Petitioner: J. Robert Haines
 (Type or Print Name)
 Address: 10750 Lakeside Court, Columbia, MD 21044
 City and State

ORDERED By The Zoning Commissioner of Baltimore County, this 20th day of March, 1989, 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 106, County Office Building in Towson, Baltimore County, on the 14th day of March, 1989, at 3 o'clock P.M.

CERTIFICATE OF POSTING
 ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District: 11th Date of Posting: 3/12/89
 Posted for: Variance
 Petitioner: R. Thomas Jefferson
 Location of property: 55 Hershey Way, 142' W Lake Forest Ct, 4417 Hershey Way
 Location of Sign: [Signature]
 Remarks: [Signature]
 Posted by: [Signature] Date of return: 3/12/89
 Number of Signs: 4

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:

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 Case Number: 89-308-A
 55 Hershey Way, 142' W Lake Forest Court
 4417 Hershey Way
 11th Election District - 6th Councilmanic
 Petitioner(s) R. Thomas Jefferson
 Hearing Date: Tuesday, March 7, 1989 at 3:00 p.m.

Variance to allow a front setback of 5 ft. 6 in. in lieu of the required front yard average of 25 ft. and to allow a side yard setback of 7 ft. and a sum total of 8 ft. and 20 ft., respectively.

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

J. ROBERT HAINES
 Zoning Commissioner of Baltimore County
 2247 Feb. 16

Office of PATUXENT PUBLISHING COMPANY
 10750 Lakeside Court
 Columbia, MD 21044

THIS IS TO CERTIFY, that the annexed advertisement of [Signature] was inserted in the following:
 Catonsville Times
 Abutts Times
 Reporter Weekly
 Booster Weekly
 Owings Mills Flier
 Towson Flier

weekly newspapers published in Baltimore County, Maryland once a week for 19 successive weeks before the day of 19 that is to say, the same was inserted in the issues of February 16, 1989

PATUXENT PUBLISHING COMPANY
 By: S. Zube Olson
 PO 09751
 reg M 25255
 price \$64.69

CERTIFICATE OF POSTING
 ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District: 11th Date of Posting: 3/12/89
 Posted for: Variance
 Petitioner: R. Thomas Jefferson
 Location of property: 55 Hershey Way, 142' W Lake Forest Ct, 4417 Hershey Way
 Location of Sign: [Signature]
 Remarks: [Signature]
 Posted by: [Signature] Date of return: 3/12/89
 Number of Signs: 4

CERTIFICATE OF POSTING
 ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District: 11th Date of Posting: 4/15/89
 Posted for: Variance
 Petitioner: R. Thomas Jefferson
 Location of property: 55 Hershey Way, 142' W Lake Forest Ct, 4417 Hershey Way
 Location of Sign: [Signature]
 Remarks: [Signature]
 Posted by: [Signature] Date of return: 4/15/89
 Number of Signs: 4

CERTIFICATE OF PUBLICATION
 TOWSON, MD, January 19, 1989

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 January 19, 1989.

NORTHEAST TIMES
 THE JEFFERSONIAN
 S. Zube Olson
 Publisher

PO 08790
 reg M 25184
 case 89-308-A
 price \$71.10

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

J. Robert Haines
 Zoning Commissioner

Date: 2/28/89

R. Thomas Jefferson
 4417 Hershey Way
 Baltimore,
 Maryland 21236
 Re: CASE # 89-308-A

Please be advised that \$74.69 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(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 make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before the hearing.

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

No. 027111
 1 post set(s), there each set not

DA: 2-7-89 ACCOUNT: R-1-115-000
 AMOUNT: \$ 94.67
 RECEIVED BY: R. T. Jefferson
 FOR: Parking & Advertising (89-308-A)

NOTICE OF HEARING

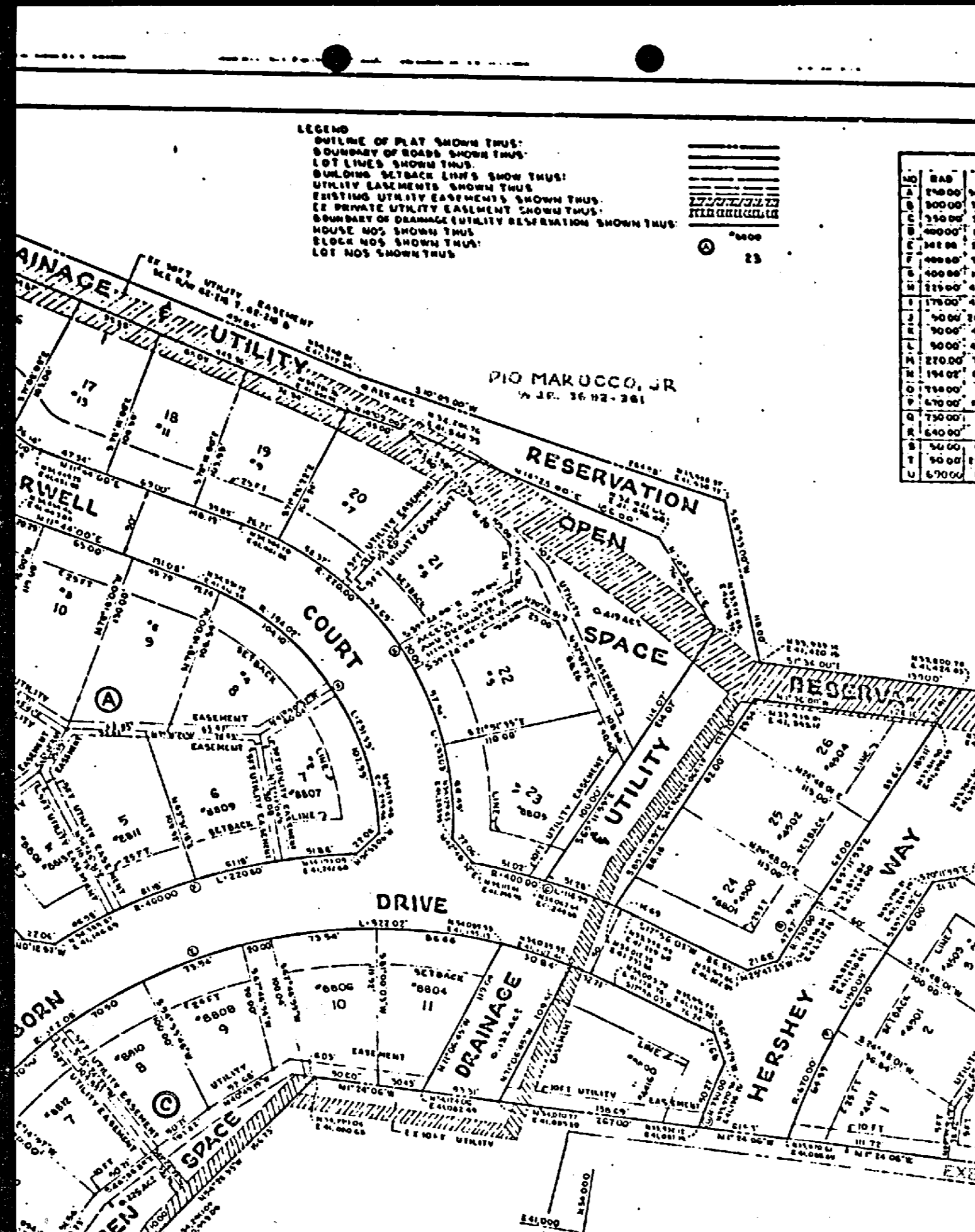
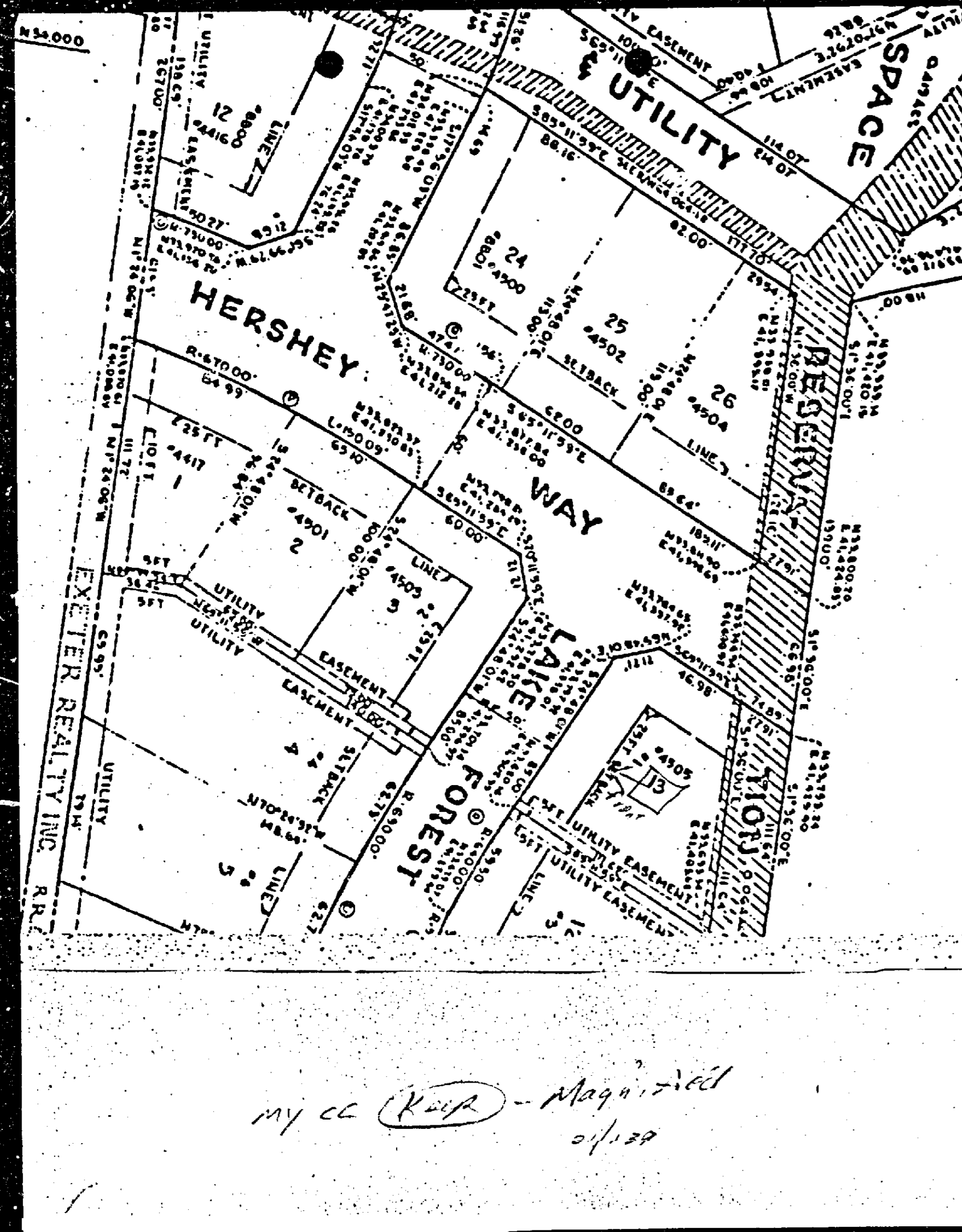
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
 CASE NUMBER: 89-308-A
 55 Hershey Way, 142' W Lake Forest Court
 4417 Hershey Way
 11th Election District - 6th Councilmanic
 Petitioner(s) R. Thomas Jefferson
 Hearing Scheduled: THURSDAY, FEBRUARY 7, 1989 at 2:00 p.m.
 Tues Mar 7 1989 3:00 PM

Variance to allow a side yard setback of 10 ft. in lieu of the required 12 ft.

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

J. Robert Haines
 Zoning Commissioner of Baltimore County
 cc: R. Thomas Jefferson



89-308-A
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
30th day of November, 1988

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Petitioner: P. Thomas Jefferson
Petitioner's Attorney: _____

Received by: James E. Dyer
Chairman, Zoning Plans
Advisory Committee

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

To: J. Robert Haines, Zoning Commissioner
Date: February 21, 1989

From: Pat Keller, Deputy Director
Office of Planning and Zoning

Zoning Petition Nos. 89-305-SPHX (GR7 Ltd.); 89-308-SPH (Jefferson);
SUBJECT: 89-308-A (Snyder); 89-312-A (Williams); 89-317-A (Thompson); and
89-334-A (Servary)

The Office of Planning and Zoning has no comment on the above listed projects.

PK/sf

RECEIVED
FEB 21 1989
ZONING OFFICE

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

To: J. Robert Haines, Zoning Commissioner
Date: March 7, 1989

From: Pat Keller, Deputy Director
Office of Planning and Zoning

Zoning Petition Nos. 89-308-SPH (Jefferson); 89-318-A (Podles); 89-350-A (Khouzani); 89-354-A (Smith); 89-359-A (Heutner); 89-363-A (Cash);
SUBJECT: 89-364-A (Kaplan); 89-368-A (Appel); 89-369-A (Mathai); 89-375-A (Vinson); 89-376-A (Gambrell); 89-378-A (Lim); 89-379-A (Freundlich); 89-387-A (Babikow); and 89-393-A (Lubman)

The Office of Planning and Zoning has no comment on the above listed petitions.

PK/sf

RECEIVED
FEB 21 1989
ZONING OFFICE

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reinke
Chief

December 29, 1988

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

Re: Property Owner: R. Thomas Jefferson
Location: 55 Hershey Way, 142' W. of Lake Forest Court
4417 Hershey Way
Item No.: 170
Zoning Agenda: Meeting of 11/29/88

Dennis F. Rasmussen
County Executive

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
2. A second means of vehicle access is required for the site.
3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.
4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
6. Site plans are approved, as drawn.
7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: P. H. Reinke, 12/29/88
PLANNING GROUP
Special Inspection Division

NOTED & APPROVED: *John S. O'Neill*
Fire Prevention Bureau

/s/

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

January 31, 1989

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21286

Mr. R. Thomas Jefferson
4417 Hershey Way
Baltimore, MD 21236

RE: Item No. 170, Case No. 89-308-A
Petitioner: R. Thomas Jefferson
Petition for Zoning Variance

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

Dear Mr. Jefferson:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,
James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:dt
Enclosures

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21284
(301) 887-3554

January 17, 1989

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

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for item numbers 38, 186, 170, 193, 195, 197, 198, 201, and 203.

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate II

MSP/lvw