

IN RE: PETITION FOR ZONING VARIANCE
E/S Back River Neck Rd., 128' +/-
N of the c/l of Hopewell Ave.
(101 Back River Neck Road)
15th Election District
5th Councilmanic District
Emanuel Glasser
Petitioner

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 90-49-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance to permit 67 parking spaces in lieu of the required 79 spaces, as more particularly described in Petitioner's Exhibit 1.

The Petitioner appeared, testified and was represented by S. Eric DiNenna, Esquire. Also appearing on behalf of the Petition was Nick Diakos, Potential Tenant, and Paul Lee, Registered Professional Engineer.

Testimony indicated that the subject property, known as 101 Back River Neck Road, consists of 0.93 acres split zoned B.R.-C.S.2, B.R., and D.R. 5.5, and is improved with a strip shopping center known as Riverwood Shopping Center. Said property was granted a variance in Case No. 84-15-A on August 3, 1983 for the construction of the shopping center as it exists today. Petitioner testified that the site plan presented at the previous hearing indicated that 50 parking spaces were required and they were able to provide 64 spaces. Dr. Glasser is desirous of modifying one of the existing uses from retail space, which requires less parking, to a pizza shop, which will include both a sit-down restaurant and a carry-out area. Testimony indicated the parking requirements are greater for the use proposed. As a result of comments submitted by the Department of Planning dated August 15, 1989, Petitioner has revised the site plan to realign the existing parking lot to incorporate their requirements. However, due to

the unique characteristics and shape of the subject property, the requested variance is necessary. Said site plan has been incorporated into the file and identified as Petitioner's Exhibit A. Testimony presented indicated that the parking proposed will be adequate to meet the needs due to the surrounding uses. Petitioner believes that a number of the prospective customers to the pizza shop will be walk-ins or customers of the other retail uses in the shopping center. Testimony further indicated that the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community.

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.

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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 30th day of August, 1989 that the Petition for Zoning Variance to permit 67 parking spaces in lieu of the required 79 spaces, in accordance with the revised site plan identified as Petitioner's Exhibit A, be and is hereby GRANTED, subject, however, to the following restrictions:

- 1) The 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.
- 2) The car rental agency will be permitted no more than six (6) reserved spaces as depicted in Petitioner's Exhibit A. Petitioner shall be responsible for monitoring the tenant's compliance with this restriction. If Petitioner fails to enforce said restriction, the variance granted herein may be rescinded and the occupancy permit for the Pizza Shop shall be revoked.
- 3) Prior to the issuance of an occupancy permit for the proposed restaurant, Petitioners shall submit to the Zoning Office an approved landscaping plan, including, but not limited to, a 6-foot high screen fence along the residential property line.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

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Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 837-3353
J. Robert Haines
Zoning Commissioner

August 30, 1989



S. Eric DiNenna, Esquire
P.O. Box 10508
Towson, Maryland 21285-0508

RE: PETITION FOR ZONING VARIANCE
E/S Back River Neck Road, 128' +/- N of the c/l of Hopewell Avenue
(101 Back River Neck Road)
15th Election District - 5th Councilmanic District
Emanuel Glasser - Petitioner
Case No. 90-49-A

Dear Mr. DiNenna:

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 867-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: People's Counsel

File

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 409 to allow 67 spaces in lieu of the required 79 spaces.

- of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)
1. Irregular shape of property
 2. Existing developed center and authorized change of use of a portion of center
 3. Ability of owner to lease
 4. Such other and further reasons

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

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

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

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

S. Eric DiNenna, Esquire

(Type or Print Name)

Signature

P. O. Box 10508

Address

Towson, MD 21285-0508

City and State

Attorney's Telephone No.: (301)296-6820

ORDERED By The Zoning Commissioner of Baltimore County, this 30th day of August, 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 through-out 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 15th day of August, 1989, at 11 o'clock A.M.

Legal Owner(s):

Emanuel Glasser

(Type or Print Name)

Signature

Address

City and State

Signature

Address

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

S. Eric DiNenna, Esquire

Name

P. O. Box 10508

Towson, MD 21285-0508, (301)296-6820

Address

City and State

Phone No.

Phone No.

Phone No.

Phone No.

Phone No.

Phone No.

Phone No.

Phone No.

Phone No.

Phone No.

Phone No.

Paul Lee P.E.

Paul Lee Engineering Inc.

304 W. Pennsylvania Ave.

Towson, Maryland 21204

301-821-5341

DESCRIPTION

101 Back River Neck Road - 15th ELECTION DISTRICT

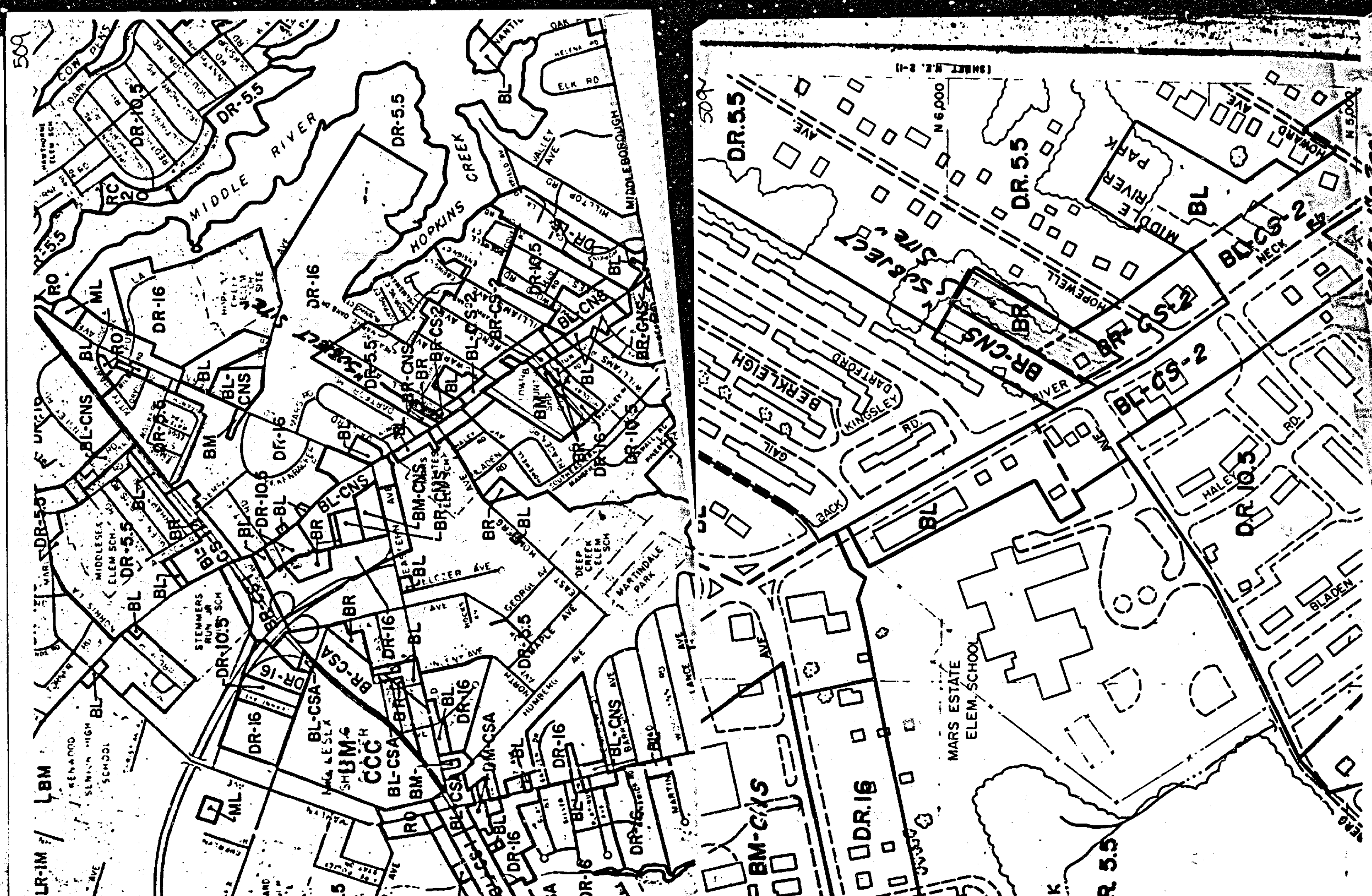
BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point on the East side of Back River Neck Road, said point being located Northerly 128 feet +/- from the center of Hopewell Avenue, thence binding on the east side of Back River Neck Road by a curve to the right (1) with a radius of 5244.04 feet for a distance of 113.98 feet, thence leaving said east side of Back River Neck Road (2) N 30°13'43" E 378.04 feet thence (3) S 60°00'57" E 99.91 feet thence (4) S 30°13'43" W 433.11 feet to the east side of Back River Neck Road and the point of beginning.

Containing 0.93 acres of land more or less.



Engineers - Surveyors - Site Planners 4-14-83



CERTIFICATE OF PUBLICATION

TOWSON, MD. July 21, 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 July 20, 1989.

THE JEFFERSONIAN

S. Zeke Olson
 Publisher

PO 13721
 ny M31043
 ca 90-09-1
 puce \$3743

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

July 7, 1989

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 90-09-1
 ES Back River Neck Road, 128' from c/l of Hopewell Avenue
 101 Back River Neck Road
 15th Election District - 5th Councilmanic
 Petitioner(s): Emanuel Glasser
 HEARING SCHEDULED: TUESDAY, AUGUST 15, 1989 at 11:00 a.m.

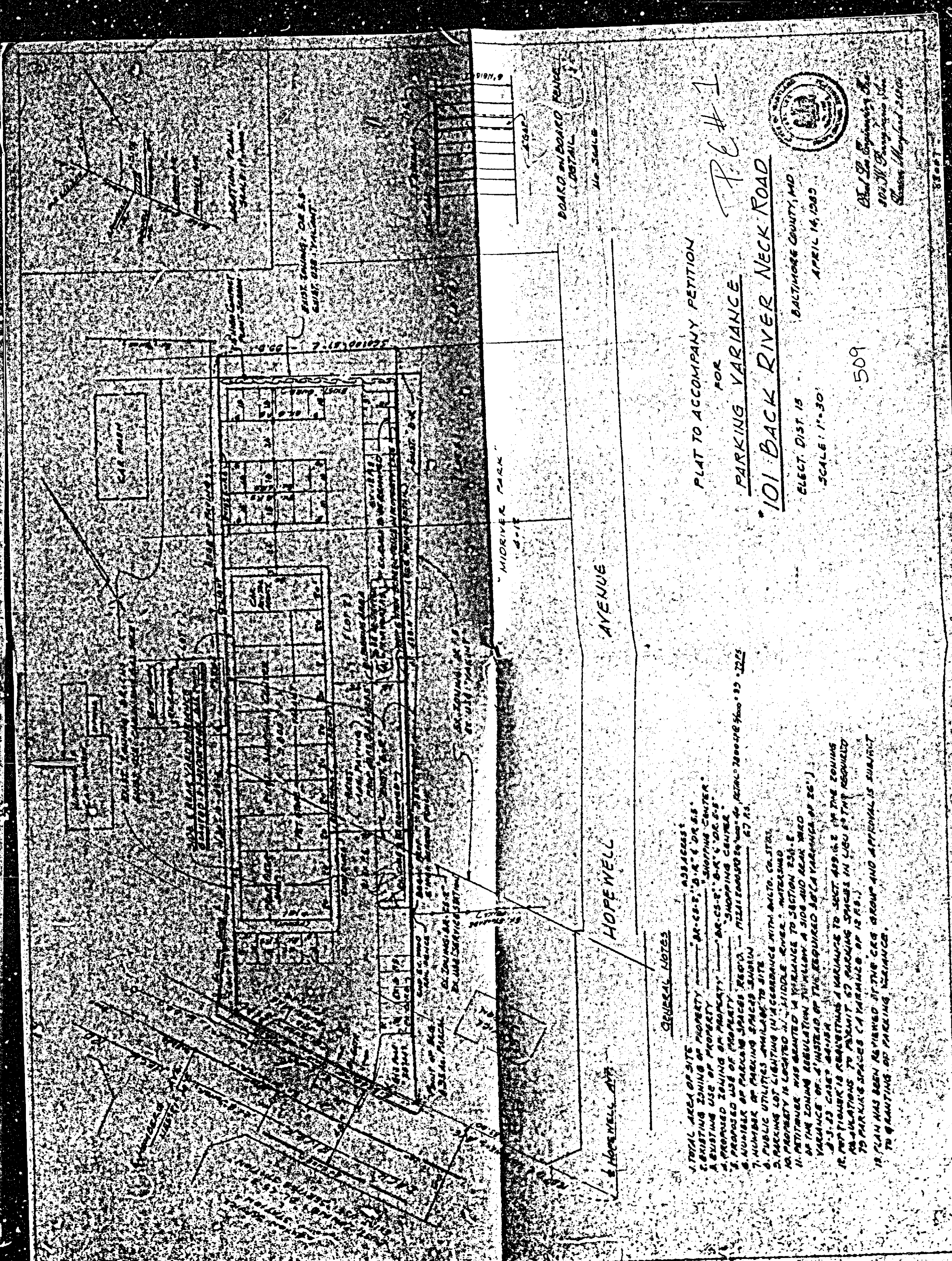
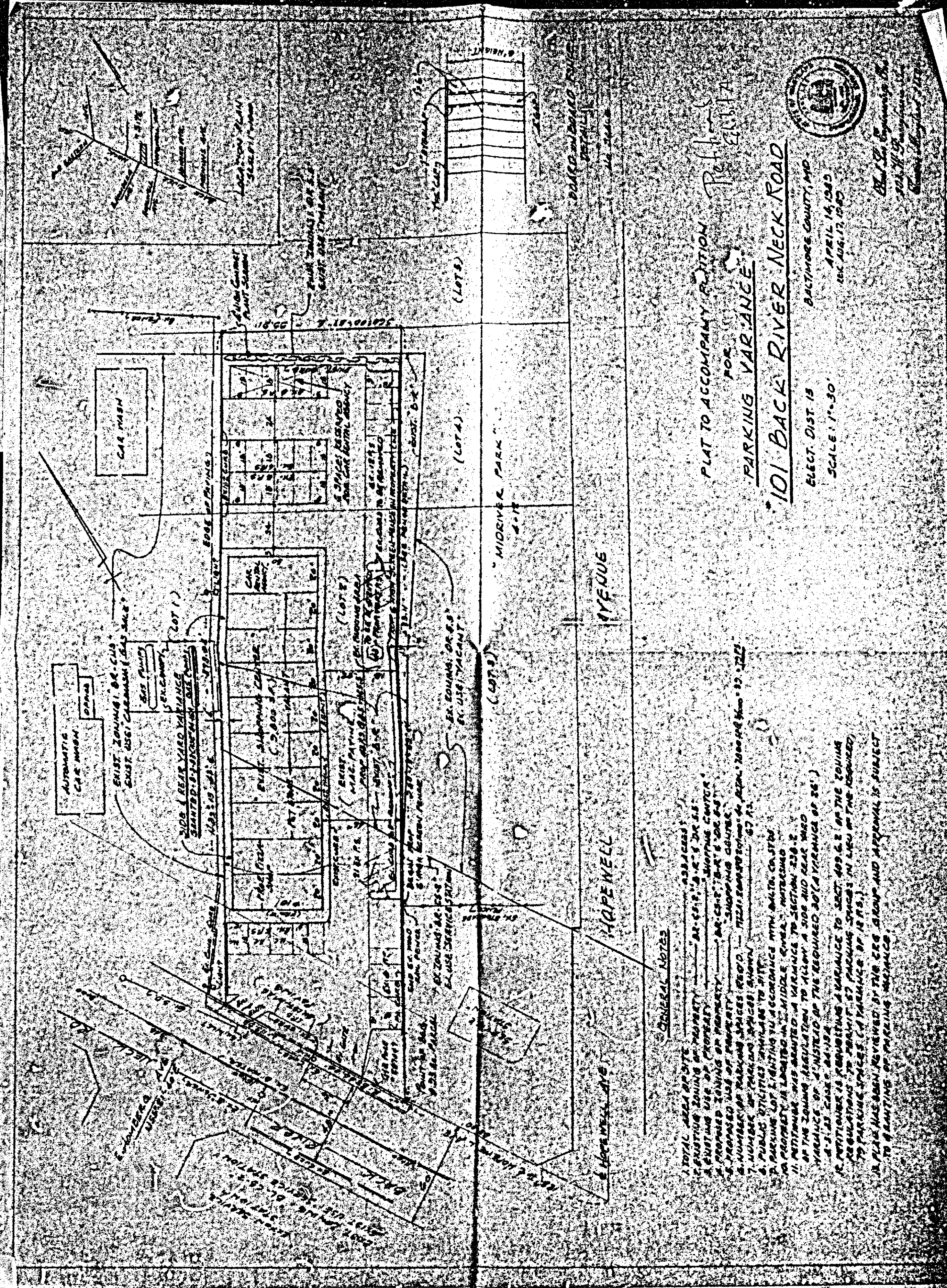
Variances to allow 67 spaces in lieu of the required 78 spaces.

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

J. Robert Haines

J. ROBERT HAINES
 ZONING COMMISSIONER
 BALTIMORE COUNTY, MARYLAND

301g
 021
 Emanuel Glasser
 S. Eric DiMenna, Esq.
 File



GENERAL NOTES

1. TOTAL AREA OF SITE: 1.03 ACRES.
2. EXISTING ZONING: RESIDENTIAL - R-1.
3. EXISTING USE: SINGLE-FAMILY RESIDENTIAL.
4. PROPOSED ZONING: RESIDENTIAL - R-1.
5. PROPOSED USE: SINGLE-FAMILY RESIDENTIAL.
6. VARIANCE REQUESTED: TO PERMIT 67 PARKING SPACES IN LIEU OF THE REQUIRED 78 PARKING SPACES.
7. PUBLIC UTILITIES: UTILITIES ARE SHOWN ON THE SITE.
8. PARKING LOT LIGHTING: LIGHTING IS TO BE PROVIDED IN ACCORDANCE WITH THE CITY OF BALTIMORE'S LIGHTING REGULATIONS.
9. FUTURE DEVELOPMENT: FUTURE DEVELOPMENT IS TO BE PROVIDED IN ACCORDANCE WITH THE CITY OF BALTIMORE'S FUTURE DEVELOPMENT REGULATIONS.
10. THE ZONING COMMISSIONER HAS GRANTED A VARIANCE TO PERMIT 67 PARKING SPACES IN LIEU OF THE REQUIRED 78 PARKING SPACES.
11. THE ZONING COMMISSIONER HAS GRANTED A VARIANCE TO PERMIT 67 PARKING SPACES IN LIEU OF THE REQUIRED 78 PARKING SPACES.
12. THE ZONING COMMISSIONER HAS GRANTED A VARIANCE TO PERMIT 67 PARKING SPACES IN LIEU OF THE REQUIRED 78 PARKING SPACES.
13. THE ZONING COMMISSIONER HAS GRANTED A VARIANCE TO PERMIT 67 PARKING SPACES IN LIEU OF THE REQUIRED 78 PARKING SPACES.
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15. THE ZONING COMMISSIONER HAS GRANTED A VARIANCE TO PERMIT 67 PARKING SPACES IN LIEU OF THE REQUIRED 78 PARKING SPACES.

IN PLAN HAS BEEN AS SHOWN BY THE ZONING COMMISSIONER AND APPROVAL IS SUBJECT TO GRANTING OF PARKING VARIANCE.